EXHIBIT A

IN THE COURT OF COMMON PLEAS PHILADELPHIA COUNTY, PENNSYLVANIA

- - -

D.C/J.D.M

Plaintiff,

:

:

VS.

:

LIBERTY RIDGE FARM :

Et al. :

Defendant. :

- - -

TUESDAY, DECEMBER 20, 2022

- - -

Oral deposition of DAVID CROSS, taken pursuant to Notice, was held via Zoom, commencing at 8:34 a.m., on the above date, before Danijela Ivanovic, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania.

- - -

MAGNA LEGAL SERVICES (866) 624 6221



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Page 2
1
    APPEARANCES:
    (via Zoom)
2
3
   ANDREOZZI + FOOTE
    BY: RENEE FRANCHI, ESQUIRE
    4503 N Front Street
    Harrisburg, PA 17110
    (866) 694-2307
5
    Representing the Plaintiff
6
7
    MARGOLIS EDELSTEIN
    BY: JOCELYN MENDEZ, ESQUIRE
8
    170 S. Independence Mall W
    Suite 400E
    Philadelphia, PA 19106
    jmendez@margolisedelstein.com
    Representing the Defendant
10
11
12
    Also Present,
          Meghan Wynkoop, Co-Counsel of
          J. Mendez
13
14
15
16
17
18
19
20
21
22
23
24
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Page 3
1
2
                  I N D E X
3
4
   Testimony of: DAVID CROSS PAGE
5
         BY MS. MENDEZ..... 05, 113
6
        BY MS. FRANCHI........... 80
7
8
9
10
11
12
              EXHIBITS
13
14
   NO. DESCRIPTION
                                   PAGE
15
16
              (NONE MARKED.)
17
18
19
20
21
22
23
24
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		Page 4
1		
2	DAVID CROSS, after having	
3	been duly sworn, was examined and	
4	testified as follows:	
5	THE WITNESS: Yes.	
6	THE COURT REPORTER: Could	
7	you please state your name for the	
8	record?	
9	THE WITNESS: Mr. Cross.	
10	THE COURT REPORTER: Thank	
11	you. We can begin.	
12	MS. MENDEZ: Great. So,	
13	before we fully jump in, just want	
14	to put a few stipulations on the	
15	record. David, your deposition is	
16	the last in a series of, I think,	
17	seven or eight depositions that	
18	have been taken since October.	
19	At the start of those	
20	depositions, Attorney Franchi put	
21	some stipulations on the record,	
22	and if you're still in agreement,	
23	Counsel, that those same	
24	stipulations can apply today, we	



```
Page 5
                 MS. FRANCHI: Yes, we can.
1
 2
          You don't have to reiterate it all
 3
          them again.
                 MS. MENDEZ: Cool. Great.
          And also, just to put on the
 5
 6
          record, we do have an electronic
7
          version of the discovery documents
8
          that will be referenced today that
9
          has been shared with Counsel in
10
          advance of the deposition.
11
                 Rather than admitting the
12
          exhibits, I'll just be referring to
13
          the pages of discovery which I've
14
          created a new Bates stamp for.
15
          That way, everyone's on the same
16
          page with that.
17
                 MS. FRANCHI: That works for
18
          me.
19
20
                    EXAMINATION
21
22
    BY MS. MENDEZ:
23
          Q. Okay. And I introduced
    myself briefly, David, but my name is
24
```



- 1 Jocelyn Mendez. I'm from the law firm,
- 2 Margolis Edelstein. I represent all of
- 3 the defendants in the lawsuit, and you
- 4 and I will just be having a conversation
- 5 today.
- We're here to take your
- 7 deposition, and like I said, I'm going to
- 8 be asking you a series of questions.
- 9 Question and answer should flow sort of
- 10 like a conversation.
- 11 And just as a brief note, the
- 12 court reporter is typing down everything
- 13 that we say, so it's important that when
- 14 I ask a question, that you provide a
- 15 verbal response, a yes, a no, I don't
- 16 know, something like that, just because
- 17 she's not able to type down head nods or
- 18 head shakes or anything like that.
- 19 A. Okay.
- Q. If you do not understand a
- 21 question, please let me know, so that I
- 22 can rephrase it, ask it a different way.
- 23 If you do answer a question that I ask,
- 24 I'm going to assume that you understood



```
Page 7
    that question.
1
2
                 Is that fair?
3
          Α.
                Yes.
          Q.
                Great. Avoid when you're
    answering questions -- like I said, all
5
6
    answers do have to be verbal. Avoid any
7
    sort of uh-huh or uh-uh. Again, those
8
    are just hard to type and just hard to
9
    understand in the transcript which we'll
10
    be receiving at a later date.
11
                 During the course of this
12
    deposition, we will be taking probably
13
    quite a few breaks. I do like to break a
14
    lot, and if you need to take a break at
15
    any time for any reason, you certainly
16
    can take a break at any time from
17
    answering questions.
18
                 I just ask that if I pose a
19
    question to you, you answer that question
20
    first before you take your break.
21
          Α.
                All right.
22
                 I'm not sure what the
          0.
23
    prison's procedures are on whether if you
24
    need to take a restroom break or anything
```



Page 8 like that. I'm fine if you need to take 1 2 any break. I just don't know what the 3 procedures are if you have to call somebody into the room or anything like 5 that. But I'm fine with whatever you 6 need. 7 Also, your counsel may make 8 objections to the form of a question that 9 I might ask, and that's fine. You are 10 required to still answer my question 11 unless your attorney explicitly says do 12 not answer it. 13 Is that fair? 14 Α. Fair enough. 15 Great. So, let's get started with some of the sort of general 16 17 background questions. 18 David, have you ever been deposed before? 19 20 Α. No. 2.1 Q. No? This is your first time? 22 Α. Yes. 23 Do you understand that Q. currently you're under oath to testify 24



```
Page 9
    truthfully?
1
2
          Α.
                Yes.
3
                Are you currently on any
    medications which would inhibit your
5
    ability to testify truthfully today?
6
          Α.
                No.
7
                 Okay. Are you experiencing
8
    any sort of medical conditions that
9
    would --
10
          Α.
                No.
11
             -- inhibit your ability to
12
    testify truthfully?
13
          Α.
                No.
14
                Okay. And just before I
15
    continue, it's very natural in normal
16
    conversation to anticipate what the other
17
    person is going to say. Just because
18
    we're in a deposition and we have a court
19
    reporter, try your best, and I will too,
20
    to make sure that I've fully finished my
21
    question before you offer an answer. And
22
    I'll do the same 'cause it's hard for me
    too 'cause it's human nature.
23
24
                 At this moment, are you under
```



```
Page 10
    the influence of any alcohol or illegal
1
2
    drugs?
          Α.
                No.
4
          Q. Great. Is there any other
    reason today why we cannot proceed with
5
6
    your testimony?
7
          Α.
                No.
8
                Okay. Great. So, David,
9
    what location are you currently taking
10
    this video deposition from?
11
          Α.
                SCI Somerset.
12
                Have you done anything to
    prepare for your deposition today?
13
14
                I've read over my paperwork
15
    and stuff. Other than that, no.
16
                Okay. What paperwork, which
17
    documents did you review, if you
18
    remember?
19
                The -- I think it was like
          Α.
20
    that -- the packet of paperwork where she
21
    had came in and gave me and my an --
22
    like, got my side of the story, and I
23
    gave her my -- my response and stuff.
                Sounds like maybe the
24
          Q.
```



```
Page 11
    interrogatories?
1
          Α.
                Yeah.
          Q.
                Okay.
          Α.
                 I think it was.
5
                Great. Did you review
          Q.
6
    anything else other than that?
7
                 I've read everything that
          Α.
8
    I've received. Medical records, the
9
    discovery, all of that.
10
          Q. Okay. Great. And was anyone
11
    else present when you reviewed the
12
    documents?
13
          Α.
                 No.
14
                Okay. Have you spoken with
15
    anyone besides your attorney about this
    litigation, about this lawsuit?
16
17
                 No.
          Α.
18
                 Okay. Have you made any
          Q.
    posts on social media or anything like
19
20
    that?
21
          Α.
                 No.
22
                 Okay. Thank you. Moving
          Q.
23
    into some more background questions.
24
                 David, what is your full
```



```
Page 12
    legal name?
1
2.
          Α.
            David Edward Cross.
3
          Q. Okay. Have you ever gone by
4
    any other name?
5
             I was adopted, so I had a
6
    prior name before that.
7
          Q. Okay. Do you recall what
8
    that name was?
9
         A. No, I did not provide that.
10
    No.
11
          Q. Okay. Do you recall what
12
    that name was?
13
          A. Yes. Yes. Percy David
14
    Bates.
15
          Q. Percy David Bates. Okay.
16
                And what is your birthdate?
               8/19/96.
17
          Α.
18
          Q.
               And where were you born?
19
               Bridgeton, New Jersey.
          Α.
20
          Q.
               And do you recall around what
21
    age you were adopted?
22
          A. Five.
23
          Q. Around 5? Okay.
24
          Α.
               Yes.
```



Page 13 David, do you currently hold 1 2 a driver's license in any state? 3 you held a driver's license in any state? Α. No. 5 No? And I know that right 0. 6 now you are currently incarcerated, but 7 prior to your incarceration, where were 8 you living? What was your address? 9 985 North Delsea Drive, 10 Vineland, New Jersey. Apartment 2. 11 Q. Okay. So, New Jersey. 12 And how long were you at that 13 address in New Jersey? 14 I was out -- I was out there 15 for all of 2021, but prior to that, I had been back and forth between PA and New 16 17 Jersey. 18 Okay. Thank you. Ο. 19 And do you recall -- we'll 20 get into some more of the specifics about 21 Liberty Ridge later, but do you recall 22 where you were living right after you 23 left Liberty Ridge? 24 Α. I stayed with Nelson Martin



Page 14 for a little bit, and then I had gone 1 to -- I think that his name is Mel 3 Burkholder, I'm not sure. And then, I moved back in with my family for a short time, and then when I turned 18, I 6 moved back to New Jersey. 7 Okay. So, after Liberty Q. 8 Ridge, you were still within the PA area, 9 the Pennsylvania area? 10 Α. Yes. Yes. For a short time. 11 Q. For a short time. Okay. 12 Until about 18, you said. 13 Α. Yes. 14 Q. Okay. Thank you. Okay. 15 David, when you were adopted or around the time of your adoption, if 16 17 you can remember, were you raised by both 18 parents? 19 Α. Yes. 20 And who are your parents? Q. 21 What are their names? 22 Percy Bates and Stella Α. 23 Bates. 24 Q. Okay. And are they the



```
Page 15
   people who adopted you?
1
2.
          Α.
               No.
3
          Q.
               Okay.
          Α.
               Bill and Joanne Cross.
5
          Q. Bill and Joanne Cross are
6
    your adoptive parents?
7
          A. Yes, ma'am.
8
          Q. And again, they adopted you
9
    when you were around 5 or so?
10
          Α.
             Yes.
11
          Q. Okay. Great. David, are you
    currently married?
12
          A. No. Divorced.
13
          Q. Divorced? Okay. When was
14
    your divorce?
15
16
          A. It was final, October 21st,
17
    2020 -- this year.
               This year? Okay, 2022?
18
         Q.
19
          Α.
               Yes.
20
          Q.
               Okay. And how long were you
    married before the divorce?
21
          A. Since 2017.
22
23
          Q. About five years.
24
                Do you have any children?
```



		Page	16
1	A. Yes. One.		
2	Q. One child. Okay.		
3	Son or daughter?		
4	A. Daughter.		
5	Q. What's her name?		
6	A. Chloe Romero.		
7	Q. Chloe. Cute.		
8	And how old is she?		
9	A. She'll be 1 on Christmas Day.		
10	Q. Okay. And your daughter, is		
11	she living in New Jersey right now?		
12	A. Yes.		
13	Q. Okay. All right. I'm going		
14	to switch gears a little bit to some of		
15	the more nitty-gritty questions.		
16	So, David, if you can recall,		
17	and it's fine for this next set of		
18	questions if you have to give me an		
19	estimate if you don't know an exact		
20	number of times, but approximately, how		
21	many times would you say you've been		
22	arrested?		
23	A. I have six parole violations,		
24	and then, 2014, 2015, '16, '17, '18, '19,		



Page 17 '20. Eight times on top of the six 1 2 parole violations. 3 Okay. And you don't have to Q. 4 go through each specific one, but 5 generally, what were some of the 6 incidents that were around each arrest? 7 There's my juvenile arrest, Α. 8 and then I was arrested for theft by 9 unlawful taking, and then two domestic 10 cases, and then, a DUI and then arrested 11 for parole violations for either 12 absconding from state or something. 13 And do you recall what the 14 juvenile case was? 15 It was a sex offense. 16 Okay. And you said -- I 17 believe you said it was two domestics. 18 Were you referring to 19 domestic violence? Were they domestic 20 violence cases? 21 Α. Yes. 22 Okay. Thank you. And aside Q. 23 from the, sort of, offenses that we just 24 went over, have you ever been charged for



```
Page 18
    any other crime that we haven't
1
    discussed?
          Α.
                No.
          Q. Okay. To your knowledge, has
5
    a protection from abuse or a PFA
6
    restraining order ever been issued
7
    against you?
8
          A. Yes. It was -- it was
9
    dropped though.
10
          Q.
                It was dropped? Okay.
11
          Α.
                Yes.
12
          Q.
                Approximately when was that?
13
                2000 -- right after our
    marriage in 2017, August of 2017.
14
15
          Q.
                And was that from your
16
    ex-wife?
                Yes.
17
          Α.
18
                Have you ever requested a
          Q.
    restraining order against anybody?
19
20
          Α.
                No. No.
21
          Q.
                Have you ever been sued
22
    before?
23
          Α.
                 No.
24
                Prior to this current
          Q.
```



```
Page 19
    lawsuit, have you ever sued anybody else?
1
 2
          Α.
                No.
 3
                MS. MENDEZ: I'm going to
          test out my screen sharing
          capabilities here. I'll be pulling
 5
 6
          up just a few documents throughout
7
          the course of today, David, just to
8
          ask if you recognize them and
9
          things like that. So, just bear
10
          with me.
11
                 THE WITNESS: All right.
12
                MS. MENDEZ: Can everybody
13
          see this?
14
                MS. FRANCHI: Yes.
15
                MS. MENDEZ: Okay. I have so
16
          many screens going that it appears
17
          black on my screen, but just for
18
          reference, this is marked as
          D-Cross-Deposition-1.
19
20
    BY MS. MENDEZ:
21
                David, do you recognize this
          Q.
22
    document here?
23
          A. Yes.
24
          Q. Okay. What do you recognize
```



```
Page 20
    it to be?
1
2
              I believe it was in the
          Α.
3
    discovery packet, I believe. I'm not
4
    sure.
5
             Okay. If I represent to you
          Q.
6
    that this is the complaint -- the amended
7
    complaint that was filed to initiate this
8
    lawsuit, would you agree that that's what
9
    this is? I can scroll down.
10
             I did not see that, actually.
          Α.
11
    I do not have that copy. I don't -- I'm
12
    pretty sure because there was --
13
                Okay.
          Q.
14
                It was -- the paper that I
15
    have, there was only two different --
16
    two -- two names on there as the
17
    plaintiffs.
18
             Okay. But you've seen some
    version of this, 'cause I know there
19
20
    were --
21
          Α.
                Yes.
22
             -- a couple of versions --
          Q.
23
    okay. Great. Thank you.
24
                And, David, without going
```



```
Page 21
    into the specifics of what you might have
1
2
    talked to your attorney about, did you
    direct your attorney to file this
    lawsuit?
5
          Α.
                Yes.
6
                MS. MENDEZ: Thank you. I'm
7
          going to stop my screenshare now.
8
          Great. That works. Okay.
9
    BY MS. MENDEZ:
10
          Q. So, other than the complaint
11
    I have just shown you, have you ever
12
    filed any sort of other charge or
13
    complaint with any other governmental
14
    agency?
          Α.
15
                No.
                Okay. Great. Thank you. I
16
17
    have some background questions.
18
                 David, did you graduate from
19
   high school?
          Α.
20
                No.
21
          Q.
                Did you in -- do you have a
22
    GED?
23
                No.
          Α.
24
                Okay. What's your highest
          Q.
```



```
Page 22
    level of education?
1
2
                Sixth grade or seventh.
          Α.
          Q.
                Sixth or seventh? Okay.
          Α.
                 Yes.
5
                 Do you have any sort of trade
          0.
6
    certifications or any other professional
7
    licenses?
8
          Α.
                No.
9
                 Okay. Have you received any
10
    sort of specialized training, maybe for
11
    various jobs or anything like that?
12
          Α.
                 No.
13
          Q.
                 Did you ever serve in the
14
    military?
15
          Α.
                 No.
16
                 Okay. Thank you. So that
17
    about does it for all of the sort of
18
    background history questions that I have.
19
                 Now, we're going to be moving
20
    more into the reason that we're here
21
    today, talking about Liberty Ridge and
22
    your time there and your experience
23
    there.
                 So, the first question that I
24
```



Page 23 have to that end is, if you can recall, 1 2 because I know that we're talking about 3 quite a long time ago, so if you can recall, who placed you in Liberty Ridge? 5 My adoptive parents. 6 Your adoptive parents? So, Ο. 7 that would be Bill and Joanne? 8 Α. Yes. They were introduced to 9 it by my uncle and aunt, though. 10 Ο. Okay. Your uncle and aunt, 11 what are their names? 12 A. Melvin and Mary 13 Sensting. 14 0. Thank you for that. 15 Prior to your placement at 16 Liberty Ridge, did you have any 17 relationship with anybody named Ethan 18 Weaver or Nelson Martin? 19 A. Not Nelson Martin, but Ethan 20 Weaver, yes. 21 Okay. Can you describe your Q. 22 relationship with him before Liberty



I met him one time at a

23

24

Ridge?

Α.

- 1 family dinner, and he brought up Liberty
- 2 Ridge to my uncle and aunt, and he looked
- 3 at me and he said, wouldn't it be fun to
- 4 go to this place, and I -- I was young,
- 5 obviously, so I agreed, you know, and he
- 6 talked a little about it. Other than
- 7 that, that was my only time meeting him.
- 8 Q. Okay. So, about how long was
- 9 it from that time that you met him at
- 10 dinner to the time that you were actually
- 11 enrolled? Like how much time had passed?
- 12 A. I think that was, like,
- 13 October, and I think I went into Liberty
- 14 Ridge in like November.
- Okay. So, about a month,
- 16 something like that?
- 17 A. Yeah.
- 18 Q. All right. Switching gears a
- 19 little bit. Talk to me about what it was
- 20 like growing up, David, what things were
- 21 like when you were a child.
- Specifically, what sorts of
- 23 things would you get in trouble for, if
- 24 you can remember, when you were a child?



Page 25 I'm trying to think. 1 Α. 2 Q. Take your time. 3 Just disobeying simple Α. things, you know. I don't know. Being 5 rebellious to my parents. In school, 6 cause issues with the other students. 7 Just small stuff. Child things. 8 Children-like things. Children -- what 9 children do, you know. I don't know. 10 Do you remember how you were 11 disciplined for the trouble that you used 12 to get into? And this is before Liberty 13 Ridge, so I'm taking it --14 Α. Yes. 15 0. -- back. 16 Α. Spanked, stand in the corner, 17 sit on the chair, timeout, stuff of that 18 nature. 19 Q. Okay. Thank you. And I 20 know, David, that you mentioned the 21 family dinner with your uncle and aunt 22 and when you met Ethan Weaver. 23 Was there ever a period of 24 time during your childhood where you were



Page 26 living with your uncle and aunt? 1 2 Yes. Up to that, yes. 3 Oh, up to that --Q. Α. Up to that -- that dinner, 5 I was -- I was living there for six 6 months, maybe. 7 Okay. Do you know why you 8 were living there? 9 Things weren't going good at 10 home between me and my sisters and my 11 brother, and I guess, my parents -- I --12 they took me out of school and then they 13 decided to just put me up with my uncle 14 and aunt for some time and see how it 15 went, you know. 16 What is your religious 17 background? 18 Now or then? Α. 19 Then. So, you can tell me Q. 20 what it was then and if you currently 21 still have a religious background, you 22 can talk about that as well. 23 I really -- I mean, I grew up Α. in the Mennonites, so they're obviously 24



Page 27 Christians. Now, I practice Odinism. 1 2 Odinism? Q. 3 Α. Yeah, I'm an Odinist. 4 Q. Can you talk a little bit about that? I don't know what Odinism 5 6 is. 7 It's like a pagan -- it's a Α. 8 pagan religion. It believes in, like, 9 Odin, Thor, the different gods, kind of, 10 like that. 11 Q. Thank you. David, as a 12 child, do you recall ever being baptized? 13 Α. No. 14 Switching gears now back to 15 Liberty Ridge and becoming enrolled in the program. 16 17 Do you remember that process 18 at all? 19 Α. Yes. My uncle and aunt had 20 me stay home after church. I met -- we 21 met with Ethan. He spoke about the 22 program and about -- between October and 23 November that I got there with my 24 parents, he would be like, oh, your



- 1 parents want to see you. We're going to
- 2 take you down there, so we went down
- 3 there, and then my dad came out, and he
- 4 was like, I need you to sign this
- 5 paperwork so I signed it.
- And then, between that
- 7 period, my parents came to pick me up.
- 8 They met my uncle and aunt halfway to
- 9 Liberty Ridge, and they picked me up and
- 10 then they took me up to Liberty Ridge.
- 11 When I got there, there was a
- 12 set of house parents there, Glenn and
- 13 Debbie Burkholder, and then mentor, Chris
- 14 Eversole, and then, I believe, Ethan
- 15 and Rubin were there as well.
- 16 And they showed us the
- 17 property, they showed us the place, and
- 18 they talked about different things that
- 19 they had in effect there, that they were
- 20 planning to do, and then, they showed me
- 21 my room where I would be sleeping.
- 22 My parents left, and I
- 23 believe I was there for a little bit by
- 24 myself as the only individual there,



```
Page 29
    like, in the -- in the program, and then
1
2
    they started working me, so I don't --
    like that's what it all led up to.
                MS. MENDEZ: I'm going to
          bring up another document very
5
6
          quickly, and this, for everyone's
7
          reference, is marked as
8
          D-Cross-Deposition-38. I just got
9
          to scroll down there.
10
    BY MS. MENDEZ:
11
          Q.
                David, does this document
12
    look familiar to you?
13
          Α.
              Yes.
14
             Is this what you recall
15
    completing before entering Liberty Ridge?
16
                No. I believe I filled that
          Α.
    out once I was there.
17
18
             You filled this out once you
19
    were there. Okay.
20
          Α.
                Yes.
21
                Just scrolling here. So, is
          Q.
22
    it my understanding that prior to this
23
    questionnaire, you signed another
    document?
24
```



Page 30 Α. Yes. 1 2 Q. Okay. 3 Α. I have -- I haven't seen that. Like, I don't know if that --5 there was a signature on the paper my 6 parents filled out, but I know I filled 7 that out once I was at Liberty Ridge. 8 Okay. Thank you for that. Q. 9 That's all I needed to ask on that, so 10 I'll stop sharing. 11 When you filled out that 12 resident questionnaire that we just looked at, were you the only person that 13 worked on that? 14 15 Like, as far as mentor helping me or somebody else helping me? 16 17 Yes. Did anybody help you? Q. 18 Yes, I believe my mentor Α. 19 might have. 20 Q. Okay. David, were you aware of whether your parents had to pay for 21 22 you to stay at Liberty Ridge? 23 Α. No. 24 Before you came to Liberty Q.



Page 31 Ridge, were you working at all? I know 1 2 you were living with your uncle, but were 3 you doing any work? Yes. He had a dairy farm in 5 Carlisle area, Chambersburg area, and I 6 would help my cousin with the cows. 7 then, during the daytime, I would go to 8 their feed mill. They owned a feed mill 9 as well. 10 And let me just circle back 11 quickly to the question that I asked 12 before this when I asked whether you were 13 aware if your parents paid for you to 14 stay at Liberty Ridge, you said, no. 15 Was that no, you aren't 16 aware, or no, they didn't pay? 17 Α. I was not aware. 18 Ο. You were not aware. Okay. 19 Thank you. 20 Α. No. 21 Okay. One more time. Q.



I was not aware if they had

Okay. Thank you. Now,

22

23

24

Α.

Q.

to pay. No.

- 1 David, just -- I want you to sort of walk
- 2 me through a typical day at Liberty
- 3 Ridge, the tasks that you would complete,
- 4 sort of what a typical day would look
- 5 like for you.
- 6 A. When I first got there, they
- 7 had the chickens going. We would get up
- 8 in the morning. It just depended on how
- 9 early we got up. They would -- me and
- 10 the mentor, and then Ethan would go down
- 11 and walk through chickens, remove the
- 12 dead chickens, make sure that they were
- 13 okay, and then we would come back inside
- 14 and have a -- a devotional. They did
- 15 like a devotional thing there.
- 16 Following that, we ate
- 17 breakfast, and then sat down with the
- 18 mentor and went over the -- the journal
- 19 type of thing that they us fill out each
- 20 day. And then, if laundry needed to be
- 21 done, do our laundry. And then they had
- 22 just started the gate project there with
- 23 Nolan Martin, and so, they were,
- 24 like, bringing that in as well, and they



Page 33 would show -- I would help build the 1 2 gates. 3 They didn't really have much 4 going on at first. Once they got more 5 people into the program, they started 6 doing more things. 7 Okay. Thank you. And when Q. 8 you say you would help build some of the 9 gates, who else was working with you? 10 At first, Nolan Martin was 11 there to show us how to do it. Once they 12 got caught on how to do it, it would be 13 just me, my mentor, and Ethan would help 14 too as well. Ethan would help? Thank you. 15 Q. 16 While you were at Liberty 17 Ridge, did your parents ever visit you? 18 They did, I'm going to say, 19 approximately twice. Maybe a couple 20 more. Not -- not any more than four 21 times. I know that for a fact. 22 While you were there, did you Q. 23 ever call them or write them letters?



I did write them a couple of

24

Α.

Page 34 letters. I noticed in my -- in the 1 2 discovery or whatever, the packet that I 3 got that there was never -- it was never sent out for me. I don't know why it wasn't sent out. It was a Mother's Day 6 letter for my mom. 7 I believe I might have called 8 them maybe twice. I was allowed to call 9 them twice. They based it off behavior 10 pretty much, and my behavior wasn't the 11 best so that I really didn't get any 12 privileges. 13 Okay. So, when you were in 14 the shop or working on the fences or 15 anything like that, do you recall any sort of tools, what sort of tools you 16 17 were using? 18 Yes, they would have me 19 use -- it's -- it's called a rip --20 rip -- like a -- it's kind of like a -- a 21 nailer gun, but it's not nails, it's 22 rivets. One of us would go around and



drill holes in the gates, and then one of

us would come behind and put the rivets

23

24

Page 35 in it and make sure that they were 1 2 fastened. 3 They had us -- they had me --I remember using a saw one time to -- to 5 cut the gates to the right measure. 6 There was a painting machine that we ran 7 the rails through for the gates. I 8 remember pushing the rails through the 9 gates. It's -- that was when I first 10 started there, so yes. 11 Q. Okay. Before you came to 12 Liberty Ridge, had you ever used any of 13 that equipment before? 14 Α. No. 15 And I know that you said you 16 had done some work on the dairy farm when 17 you were with your uncle, so was being at 18 Liberty Ridge sort of your first 19 experience -- I'm sorry, your first 20 exposure to, sort of, construction skills 21 and that kind of thing? 22 Α. Yes. 23 Q. Can you talk to me a little



bit about the farming aspect of Liberty

24

Page 36

there.

would

y, put
d then,

the

we would

- 1 Ridge?
- 2 A. They raised chickens there.
- 3 So the chickens would go out. We would
- 4 have to go in there and, obviously, put
- 5 the feeders up and the waters, and then,
- 6 after they were done loading out the
- 7 chickens, like a day after that, we would
- 8 clean out the barns.
- 9 They had -- a couple of
- 10 months later, they got a couple of
- 11 animals, pigs and a couple steers, and it
- 12 was my job to go out and feed them. They
- 13 had crops there, obviously. I didn't
- 14 really interact with that at all because
- 15 it was all big machines they were using
- 16 for that. That's the best I can put it.
- 17 Q. Okay. Did you do any
- 18 gardening? Was there a small garden? I
- 19 know there was a larger one.
- 20 A. Yes, there was a small garden
- 21 there. We helped pull weeds, help plant
- 22 them. Whenever I would misbehave, they
- 23 would have me go out and pick up stones
- 24 out in the garden and stuff like that.



Page 37 While you were doing any of 1 2 this, any of the gardening, tending the 3 chickens, any of those sorts of tasks, were you ever told that you would be paid 5 for them? 6 Α. No. 7 At any point, did you ever 8 expect to be paid? 9 No, 'cause of my age. 10 And moving sort of away from 0. 11 the tending the farm and the other tasks 12 and chores, can you talk to me, David, 13 about any of the recreational activities 14 that you would do while you were at Liberty Ridge? 15 16 Walk through the woods. 17 Couple of times, we took a drive up to 18 the mountain and drove along the 19 mountain. They didn't really have too 20 much going on there when I first got 21 there. 22 Okay. Did you ever play Q. 23 basketball? 24 Α. They did have a small



Page 38 basketball area. 1 2 Q. Do you remember ever making 3 ice cream? Α. Yes, Ethan did a couple of times. 5 6 And do you recall -- maybe 7 not in the early days but maybe later on, 8 do you recall whether there was ever a 9 point system while you were at Liberty 10 Ridge? So, like, you could earn points 11 for good behavior and then cash those 12 points in for prizes or anything like 13 t.hat.? 14 I remember there was a time 15 where during -- after lunch, we would sit down altogether downstairs and we would 16 17 all do like a two-hour -- like a -- study 18 the Bible. Ethan would have us memorize, 19 like, chapters out of the Bible and 20 stuff. 21 And by like a certain time of 22 the month, if we were able to recite it 23 all perfectly, we would get something for 24 that. I never made it.



Page 39 So, if you can remember for 1 2 some of the people who did make it, what 3 were some of the things that they could get for that? 5 I remember them receiving a 6 toolbox. I believe I received, like, a 7 hammer, a couple of screwdrivers, stuff 8 like that, pliers. As far as 9 extracurricular activities went, I 10 remember we made stool step -- like, 11 stepstools at one point, and I believe it 12 was for our parents, our mom. 13 Do you recall if your parents 14 ever received those stools? I took it home with me. 15 Back to that small garden 16 that we talked about a few minutes ago, 17 do you recall being able to eat the food 18 19 that you grew there? 20 Yes, we would -- we harvested it and Ethan's wife would can the food 21 22 and stuff like that. Yeah. It wasn't 23 very big.



Q. Right. What were some of the

24

- 1 foods that you would harvest?
- 2 A. Potatoes, sweet corn. They
- 3 had a couple of rows of beans. There was
- 4 a little patch of strawberries. They had
- 5 tea growing in the one spot. I remember
- 6 cutting tea, taking it in. Stuff like
- 7 that. Peppers.
- 8 Q. Okay. Thank you. So, I know
- 9 we talked a little bit before about some
- 10 of the discipline that you would have
- 11 back when you were with your parents,
- 12 your adoptive parents.
- 13 Can you now transition to
- 14 talking a little bit about the discipline
- 15 that you received while you were at
- 16 Liberty Ridge?
- 17 A. When I first got there,
- 18 before the second person arrived, I
- 19 believe I had to dig like 15 post holes
- 20 that created, like, a fence line around
- 21 where the steers were.
- 22 They had a -- a thing where
- 23 if we disobeyed, that we'd have to --
- 24 they took a five-gallon bucket, they put



- 1 like a -- put a fiberglass top on it, and
- 2 they drilled holes about the size of a
- 3 quarter, and we had to crush stones and
- 4 make -- make sure that the stones could
- 5 fit through the hole and fill the bucket
- 6 up.
- 7 And I remember having to dig
- 8 a French drain. I remember having to dig
- 9 out a couple stumps. And refusal of any
- 10 of that just added more time onto that.
- 11 Like, let's say, if I refused and just
- 12 kept misbehaving during crushing the
- 13 stones for the bucket, they would add
- 14 buckets on.
- 15 I remember having to write
- 16 sentences like out of the Bible, like why
- 17 I shouldn't be doing what I was doing or
- 18 this and that. I remember having to
- 19 split firewood for one of the
- 20 punishments. Things of that nature.
- Q. What sorts of things or what
- 22 sorts of behavior created the need for
- 23 discipline, if you can remember?
- 24 A. Backtalking. Not



- 1 participating in the group devotionals.
- 2 I remember going to church a couple of
- 3 times with them there, that I was
- 4 interested in a female of the church, and
- 5 they weren't having it, and they made me
- 6 sit downstairs for every church service
- 7 that we went to after that with my
- 8 mentor.
- 9 Then, not paying attention in
- 10 church or falling asleep in church,
- 11 they'd make me write sentences when I got
- 12 home. Stuff like that.
- 13 Q. Thank you. Now, I'm sort of
- 14 going to transition into some of the
- 15 specific allegations that were made in
- 16 the complaint about discipline. The
- 17 first question that I sort of want to ask
- 18 on that end is specifically about the
- 19 running, the running laps.
- 20 First of all, did you ever
- 21 have to run laps as a consequence?
- 22 A. No, I remember somebody else
- 23 had to though.
- Q. Okay. Did you witness that



```
Page 43
    person run?
1
          Α.
                Yes.
3
                Okay. Do you recall why they
    were directed to run?
5
                 I do not recall why. No.
6
                Okay. Thank you. That's all
          Ο.
7
    I have on that. All right. Switching
8
    gears a little bit here.
9
                 Without telling me what was
10
    discussed, when did you first contact an
11
    attorney regarding a lawsuit against
12
    Liberty Ridge?
13
                 I'm not sure if it was -- I
14
    don't remember the exact month, but I do
15
    remember receiving a call from a family
16
    member stating there was allegations
17
    against Liberty Ridge, and they reached
18
    out to me and I decided to go look into
    it and take it from there.
19
20
                 I would say, probably around
    like March, April. I can't remember the
21
22
    exact month.
23
          Q. Of what year?
24
                 2021.
          Α.
```



```
Page 44
                 MS. MENDEZ: 2021. If it's
1
 2
          all right with everyone, I just
 3
          want to take a break, probably
          about three minutes, just to look
5
          through my notes.
 6
                 MS. FRANCHI: That's fine
7
          with me. Do you -- are you going
8
          to go off-camera and shut your mike
9
          off?
10
                 MS. MENDEZ: Yes, yes. Let's
11
          go off for a few minutes.
12
                MS. FRANCHI: Okay.
13
14
                 (Whereupon, a brief recess
15
          was taken.)
16
17
    BY MS. MENDEZ:
18
          Q. David, I want to go back a
19
    little bit to your time at Liberty Ridge,
20
    specifically the sort of actions and
21
    other things that led to consequences for
22
    you.
23
                 Can you talk to me about any
24
    time during your time at Liberty Ridge
```



Page 45 where you became physically violent? 1 2 Yeah, a couple of times, I Α. 3 can remember. Yes. 4 Q. Can you talk about those times? 5 6 I remember -- can't exactly 7 remember what led up to it, but I 8 remember I threw a stone at my mentor at 9 one time, and I went to the shop and they 10 came in behind me and they had tried to 11 grab me, and I remember hitting the one 12 mentor. 13 Another time, I was doing a 14 consequence, and I don't know what --15 why -- I don't remember why I did it, but I remember I felt -- I felt afraid for 16 17 some reason, and I remember Ethan was 18 coming towards me, and I had a digging iron in my hand. I remember swinging it 19 20 at him. Other than that, I can't 21 22 really remember much on that as far as 23 that goes. 24 MS. MENDEZ: Okay. I'm going



```
Page 46
          to pull up another document very
1
2
          quickly here. For everyone's
          reference, this is marked as
3
          D-Cross-Deposition-54.
5
                Everyone able to see this?
6
                THE WITNESS: Yes.
7
    BY MS. MENDEZ:
8
             Do you recognize this
          Q.
9
    document, David?
10
          Α.
                Yes.
11
          Q. What do you recognize it to
12
    be?
13
          Α.
                Daily moral inventory.
                                        Ι'm
14
    trying to read what it says. Yeah, I
15
    recognize it. It's a daily moral
16
    inventory we had to do every day.
17
             Okay. I know it may be a
18
    little hard to see, but on this one here,
    it looks like it's dated October 18th,
19
20
    2013, and the goals for the day. Are you
21
    able to read what that says there?
22
                Yeah. I can see it and that
23
    says, "Don't lie to Dr. Walker. Don't
24
    get angry at others."
```



Page 47 Q. Okay. And then, can you read 1 2 what it says under the highlights and 3 victories portion? Got to go see Dr. Walker. 5 0. Do you remember who Dr. 6 Walker was? 7 Yes. He was a psychiatrist Α. 8 that my parents had -- had me seeing a 9 couple of months prior to going to 10 Liberty Ridge. 11 Q. And you were still seeing him 12 while you were at Liberty Ridge? 13 I'd seen him, like, once or 14 twice, and then they discontinued it. 15 Q. Who was taking you to go see 16 him? 17 Ethan Weaver did. I believe Α. 18 Nelson Martin might've -- might've taken 19 me one -- one other time. 20 Q. Okay. Actually, a quick question about Nelson Martin since you 21 22 brought him up. 23 How often do you recall seeing him actually at the farm at 24



```
Page 48
    Liberty Ridge on a sort of day-to-day
1
    basis?
 3
          Α.
                He would come up and check on
    the -- check out if the program was
 5
    running. He would come up for board
 6
    meetings, and then, he would come up
7
    around harvest time when they harvested
8
    all the crops on the property.
9
             So, is it safe to say he
10
    wasn't there every day?
11
                No, he was definitely not
12
    there every day, no.
13
                MS. MENDEZ: I'm going to
14
          reference another document now.
15
          This is D-Cross-Deposition-58.
          I'll give you a few moments with
16
17
          this, David. Let me know if you
18
          recognize it.
19
                 THE WITNESS: Yes, I
20
          recognize it.
    BY MS. MENDEZ:
21
22
          Ο.
             Okay. What do you recognize
23
    this to be?
24
          Α.
                It was a letter I had written
```



Page 49 them while I was incarcerated. I believe 1 2 it was my first incarceration. 3 Q. Do you remember who you sent it to? 5 Just to -- to the other boys 6 that were there. 7 Q. Let's see. This third 8 paragraph. 9 Are you able to see that? 10 Are you able to read, sort of, what that 11 third paragraph -- it says, "When I was 12 in LRF." 13 Α. Yes. 14 Ο. Can you read that for me? 15 "When I was in LRF, I thought 16 that I had it rough and that Ethan and 17 the mentors were unfair, but you guys 18 don't know what the words cruel and unfair are until you have done jail time, 19 20 and let me tell you right now, LRF is the 21 place to keep you from coming to jail." 22 Why did you write that letter 0. to the boys? 23 24 At that time in my life, I Α.



Page 50 didn't really have anybody else other 1 2 than the people that I knew from Liberty 3 Ridge, and I was going through some things in the jail, and I was just 5 discouraged, and they were the only 6 people I had to -- that I could think of 7 to write, you know. 8 MS. MENDEZ: Okay. Were 9 you -- strike that. I'm going to 10 move on to another document that I 11 now have marked as 12 D-Cross-Deposition-61, just a few 13 pages down. It's just the rest of 14 the letter. BY MS. MENDEZ: 15 I know this is a little 16 Q. 17 faint, but do you recognize this document, David? 18 19 Α. Yes. 20 Okay. What do you recognize Q. 21 this document to be? 22 I believe -- I believe it was 23 something Ethan had us all write up. 24 Give me a moment here. Q.



```
Page 51
                 Are you able to read any of
1
2
    these last two paragraphs?
3
                 Where it starts out, "As a
          Α.
    younger child" or before that?
5
                 "As a younger child."
          0.
6
    Correct.
7
                 "As a younger child, I went
          Α.
8
    to school to learn but only because I had
9
    to go. I didn't apply myself very hard.
10
    So, really, I only went to school to
    play."
11
12
          Q.
               And then the next one?
13
                "Now that I'm at Liberty
14
    Ridge, my mentors and Ethan Weaver are
15
    trying to teach me some basic math
    skills, which I believe will benefit me
16
17
    in one year that I am or in my years."
18
                 I am not sure though.
19
    can't really see the last part. Can you
20
    scroll it up a little bit? Yeah, it's
21
    faint.
22
          Q.
                Okay.
23
                Yeah, I can't read it.
          Α.
                Okay. That's fine.
24
          Q.
                                       Thank
```



Page 52 you for that. So, in that letter, you 1 2 mentioned Ethan and the mentors helping 3 you with math and other subjects and how prior to coming to Liberty Ridge, you 5 didn't really take school seriously. 6 Talk to me about the 7 schooling at Liberty Ridge. I know you 8 mentioned a little bit here with Ethan 9 and the mentors, but talk to me about 10 maybe other subjects that you were 11 taught. A lot of Bible stuff. 12 13 believe there was some, like, social 14 studies maybe, and history stuff like 15 that. Small things. 16 MS. MENDEZ: Okay. I'm going 17 to quickly reference another 18 exhibit now that I have my screen 19 up. This is D-Cross-Deposition-71. 20 BY MS. MENDEZ: 21 Does this look familiar, Q. 22 David? 23 Α. Yes. 24 Q. What do you believe this to



```
Page 53
    be?
1
2
                It was a Mother's Day letter
          Α.
3
    to my mom.
             This fourth paragraph here
          Q.
    starts with, I believe, "school is going
5
6
    very good."
7
                Do you mind reading that for
8
    me?
9
                "School is going very good.
          Α.
10
    Are the children out of school yet?
11
    Sister Anna coming back or not? I am
12
    taking vocabulary, penmanship, English,
13
    reading, and math that gives us a tight
14
    schedule between nine and twelve. I
15
    really enjoy school."
16
                In that paragraph where
17
    you're talking about vocabulary,
    penmanship, English, reading, and math
18
    and that you really enjoyed school, am I
19
20
    correct in saying that you were talking
21
    about the school that you were receiving
22
    while you were at Liberty Ridge?
23
          Α.
                Yes.
24
                MS. MENDEZ: Okay. And just
```



```
Page 54
          quickly, while I have my screen up,
1
2.
          I'm going to go to D-Cross
          Deposition-36. I know it's
3
          slanted. I'll try to rotate it
5
          here.
6
    BY MS. MENDEZ:
7
          Q. Do you recognize this
8
    document, David?
9
          A. I don't remember seeing them.
10
    I believe they might have sent it to my
11
    parents. I don't know.
12
          Q. Okay. Fair enough. I'm
13
    going to stop sharing my screen right
14
    now.
15
                David, how long did you stay
    at the farm?
16
17
          A. I was there from 2011 to
    2014.
18
19
          Q.
                About three years.
20
                How old were you when you
21
    left?
22
                Seventeen.
          Α.
23
                Why did you leave?
          Q.
24
                Honestly, I can't give you an
          Α.
```



- 1 exact reason why they -- they kicked me
- 2 out. I had tried to leave once on my
- 3 own, and then I tried to leave a second
- 4 time and they weren't having it, so they
- 5 just decided to just move me out.
- Q. When you say they, who are
- 7 you talking about?
- 8 A. The board, Nelson, Ethan, the
- 9 rest of the board.
- 10 Q. After you left Liberty Ridge,
- 11 did you keep in touch with anybody there?
- 12 A. No. Not other than the
- 13 letter that I had wrote to them while I
- 14 was incarcerated, no. Robert Miller, my
- 15 cousin, I had stayed in contact with him
- 16 here and there, and there was one other
- 17 kid, I believe I had tried to reach out
- 18 to that was there.
- 19 Q. You said Robert Miller is
- 20 your cousin?
- 21 A. Yes.
- Q. Was he also in Liberty Ridge
- 23 with you?
- 24 A. Yes, yes.



Page 56 David, we might have touched 1 2 on this a bit, so I apologize if this is 3 repetitive, but did your parents ever tell you why they wanted you to be at Liberty Ridge? 6 Α. No. 7 Did your parents -- I know 8 before, we talked about the discipline 9 that you experienced as a child, the 10 spanking and things like that, was that 11 from your adoptive parents or from your 12 birth parents or both? 13 Α. Adoptive. 14 0. Okay. So, they were using 15 corporal punishment. 16 Α. Yes. 17 After leaving Liberty Ridge, Q. did you work any jobs? 18 19 Α. Yes. 20 Q. What were they? 21 Α. I helped out in a motor shop 22 with the -- when I first left, I was with 23 Nelson for a little bit and then helped 24 him around the farm here and there, and



- 1 then they moved me in with a family, the
- 2 Burkholder family from Nelson's church,
- 3 and I helped in their motor shop, and
- 4 then, I was only there for couple of
- 5 weeks.
- And then, I moved back in
- 7 with my family, and things still weren't
- 8 working there, so I moved in with the --
- 9 a -- a fellow church member that had
- 10 not -- he was somebody that my parents
- 11 knew, unrelated to Liberty Ridge, Leroy
- 12 Zimmerman, and I stayed with their
- 13 family for remainder of 2014 until,
- 14 like -- I'm going to say probably, like
- 15 -- yeah, it was the remainder of 2014.
- 16 I worked for a couple of his businesses.
- 17 Q. I know you said that after
- 18 you left, you had stayed with Nelson for
- 19 a while.
- 20 Did you keep in touch with
- 21 Ethan Weaver at all?
- 22 A. No. Not while I was there,
- 23 no.
- Q. Did anybody that you met at



- 1 Liberty Ridge ever visit you while you
- 2 were in jail or in prison?
- 3 A. I had a funeral that I was
- 4 given a -- a -- an absence of leave from
- 5 the jail, and Nelson Martin came to pick
- 6 me up. That was the only person that I
- 7 had seen from Liberty Ridge.
- 8 Q. Has anyone from Liberty Ridge
- 9 ever sent money to you while you were
- 10 incarcerated?
- 11 A. No. No.
- 12 Q. I want to back up a little
- 13 bit to some of the jobs that you were
- 14 talking about after you left Liberty
- 15 Ridge.
- 16 What skills did you need at
- 17 the jobs that you had mentioned
- 18 previously?
- 19 A. Just basic things. I mean,
- 20 just pretty much with working my hands.
- 21 The -- Leroy Zimmerman, where I had
- 22 resided for a little while after I was
- 23 out of Liberty Ridge and stuff, he owned
- 24 a -- a pumping business where they would



- 1 go to coal mines and pump out coal mine
- 2 water and stuff like that.
- 3 He had -- the man for the
- 4 funeral that was I released to, he worked
- 5 with Leroy and he owned a welding
- 6 company. I helped with the welding every
- 7 now and then. He had a hog -- couple of
- 8 commercial hog farms. I would help give
- 9 the pig shots and help them load them
- 10 out.
- 11 And then, he also had a
- 12 brush-grinding company that I would go
- 13 and out and help with the brush grinding.
- Q. Earlier, a few moments ago,
- 15 you mentioned you had been given a leave
- 16 of absence to attend a funeral and that
- 17 you called Nelson to pick you up and
- 18 bring you there.
- Why did you call Nelson?
- 20 A. I did not call him. Him and
- 21 Leroy had worked something out with the
- 22 judge for me to get out from the
- 23 furlough, and I guess they just
- 24 designated him to come get me. I -- at



- 1 that time, I didn't have any contact with
- 2 Nelson about going to the funeral. I
- 3 just was aware that he was there to pick
- 4 me up.
- 5 Q. Okay. And you said, after
- 6 you left Liberty Ridge, you were staying
- 7 with Nelson for a while.
- 8 Why did you stay with Nelson
- 9 at that point?
- 10 A. Honestly, I don't even
- 11 real -- I don't know that my parents knew
- 12 that I was out of Liberty Ridge at the
- 13 time, and I don't know -- I don't think
- 14 that they knew where to put me at that
- 15 time.
- 16 Q. After you left, why didn't
- 17 you contact your parents?
- 18 A. I didn't have access to a
- 19 phone.
- Q. Were you allowed to go back
- 21 and live with your parents?
- 22 A. I stayed with Nelson and his
- 23 family for a little bit. I moved in with
- 24 this Burkholder family, and then things



```
Page 61
    didn't work out there either, and then
1
2
    they notified my parents, and they would
3
    bring me home, and then, I went back to
4
    my family.
5
                 MS. MENDEZ: Okay. So --
6
                MS. FRANCHI: Can you -- if I
7
          can interrupt for a second. It cut
8
          out the first part of that.
9
                 David, could you repeat what
10
          you had said. I don't know if
11
          it -- if it's for everybody. I
12
          don't know if the court reporter
13
          got it, but I couldn't -- you got
14
          jumbled the first little bit of
15
          your answer was.
16
                 THE WITNESS: When -- when I
17
          moved in with the Burkholder
18
          family, things didn't work out, and
19
          then my parents were notified, I
20
          guess, they would bring me back
21
          home.
22
    BY MS. MENDEZ:
23
             Okay. So, when you first
          Q.
24
    left Liberty Ridge in those days where
```



Page 62 you were with Nelson, did you ask Nelson 1 or anyone to contact your parents for 3 you? Α. I don't recall. 5 I want to go back to some 6 comments from earlier, I think, probably 7 before the break. You and I were talking 8 about how you learned about the lawsuit 9 and joining the lawsuit and everything 10 like that. 11 Can you tell me what were 12 some of the things that you heard in that 13 March 2021 era or whatever -- the month 14 that you mentioned? What were some of 15 the things that you heard that made you 16 want to file a lawsuit? I had heard that there were 17 sexual allegations against one of the 18 19 board members, Ethan Weaver, 20 particularly. And I believe I made it 21 clear that there was no sexual 22 allegations on my end to -- towards 23 Liberty Ridge. 24 But I knew I had issues with



Page 63 Ethan Weaver and that there were things 1 2 that he was doing there that definitely 3 were not -- that they were shady, and I felt like someone needed to be held accountable for it. 6 Okay. And during the course Ο. 7 of this lawsuit, of this litigation, have 8 you ever told anybody that you would be 9 getting money as a result of this 10 lawsuit? 11 Α. No. 12 I'm going to switch gears a 13 little bit here. 14 David, do you have any social 15 media accounts? 16 I have a Facebook out there. Α. 17 Q. Is Facebook your only social 18 media? 19 Α. I had a -- I had a Instagram 20 long time ago and Snapchat. Other than 21 that, no. 22 And Facebook, is it just one 0.

23 account or do you have multiple?

24 Α. I have a couple, I believe.



Page 64 What are the names of your 1 Q. Facebook accounts? 3 Α. David Cross and Tito Garcia. Who is Tito Garcia? 6 Α. Just a name I put on there 7 'cause I didn't -- I didn't want other 8 people bothering me on my accounts and 9 stuff, family, stuff like that. 10 So, you made the name up? Ο. 11 Α. Yeah. 12 Have you ever made any 13 comments on Facebook about Liberty Ridge or about this lawsuit? 14 15 Α. I believe when I had found 16 the -- I forget what it was. I don't 17 know if it was something from Liberty 18 Ridge or something from the lawsuit that 19 was posted online by the Mennonites. I 20 don't know what it was, but I remember I 21 put something on there, like, that --22 that people didn't really know who they 23 are and what they're doing is wrong. Something down that line. 24



Page 65 When you say you put 1 2 something up there, does that mean you left a comment? 3 A. Yeah, just a comment. Nothing on my Facebook that I remember. 5 6 I want to go back a bit. I 7 know that you talked about -- we talked a 8 little bit about Robert Miller. You told 9 me that he was your cousin, that you were 10 in Liberty Ridge together. 11 While you were at Liberty 12 Ridge, were you close? 13 Α. Yes. 14 Did you know that he was your cousin prior to him coming to Liberty 15 16 Ridge? 17 Α. Yes. 18 Have you spoken to him since leaving Liberty Ridge? 19 20 Α. Yes. 21 Q. When's the last time you had 22 contact with him? 23 A. I believe while I was on 24 the -- while I was on the run, I had



Page 66 asked for some money from him, and we had 1 2 spoke a couple of times, like, about 3 Lib -- the lawsuit and stuff like that, like -- just like sharing sides, pretty 5 much. 6 Q. What do you mean by that, 7 sharing sides? 8 Certain things that I 9 remember from Liberty Ridge and stuff 10 like that. 11 I'm sorry. You were fuzzy 12 for me. You cut off. So, I asked you 13 what do you mean by sharing sides, and then, your answer was muffled. Could 14 15 you --16 He had basic -- he had 17 reached out to me a couple of times as 18 far as things that I remembered from 19 Liberty Ridge and stuff like that. I 20 think he had asked if I was able to get 21 on -- in contact with a couple different 22 people that were there. 23 We spoke about, obviously,



the lawyers and that I had gotten

24

Page 67 involved, and basically, sharing, like, 1 how we were both going about it. 3 Are the two of you friends on Q. social media? Yes, I believe so. 6 Q. Do you talk to him on social 7 media? 8 A. Not very often that I can 9 remember. I remember when I borrowed money from him, I ended up blocking him 10 11 after that. I don't recall if I had his 12 phone number or not. If there was 13 anything else that I had talked to him, 14 it was over the phone and, like, not on 15 social media, though. 16 Let me just make sure that 17 I'm clear, did you say that there was a time where you borrowed some money from 18 Robert and then you blocked him on social 19 media? 20 2.1 Α. Yes. 22 Q. Why was that? 23 'Cause I couldn't pay him Α. 24 back.



Page 68 I'm sorry. Can you say that 1 2 again? It cut out. A. I wasn't able to pay it back. Q. Okay. You weren't able to pay him back and you blocked him. All 5 6 right. 7 David, do you know anybody by 8 the name of Kyle Hoover? 9 I know the name. I do not 10 know him, no, like, personally. 11 Q. Okay. How do you know the 12 name? 13 Α. Through people from Liberty 14 Ridge. I had told Ethan a couple of 15 times on the phone, like, after, like, months, prob -- like years after I was 16 17 out of Liberty Ridge and he had stated 18 that that yeah, I think he was there or 19 he was working with him. 20 Q. Are the two of you friends on 21 Facebook? 22 A. I don't think so, no. 23 Q. Have you ever talked to him 24 on social media?



```
Page 69
                No, not that I recall.
1
          Α.
 2
                MS. MENDEZ: I am just going
 3
          to take two quick minutes. I'll
          turn my camera off. I think I may
          be about done. I just want to look
 5
 6
          through my notes and make sure I've
7
          covered everything.
8
                 THE WITNESS: Okay.
9
10
                 (Whereupon, a brief recess
11
          was taken.)
12
13
                MS. MENDEZ: David, I should
14
          just have a few more questions.
15
          Just want to tie up some things
16
          here. We've talked quite a bit now
17
          about you being with Nelson --
18
          staying with Nelson for a while
19
          after leaving Liberty Ridge.
    BY MS. MENDEZ:
20
21
          Q. Approximately how long do you
22
    think you were with Nelson?
23
          A. A month or two.
24
          Q.
                While you were there, who
```



Page 70 else was living in that house? 1 2 Α. I believe his wife and a 3 couple of his children. Q. Did you have a bedroom there? 5 Α. Yes. 6 Were you eating meals with Q. 7 the family? 8 Α. Yes. 9 Going to -- excuse me. Going 10 to go back to the jobs that you worked 11 after leaving Liberty Ridge. I know 12 you've done quite a few things, but let's 13 start with your first job. 14 Can you tell me what that 15 was? 16 Like after Nelson -- after Α. 17 moving out of Nelson's in there or --18 After moving out of Nelson's, 19 yes, please. 20 I moved in with the 21 Burkholder family. I was -- they had a 22 motor shop. I worked in the motor shop a 23 little bit. And then after moving back with my family, then moving on to Leroy 24



Page 71 Zimmerman's, I don't really know how to 1 2 describe it better than what I already 3 have. It was just typical work. Q. Let's backtrack a little bit 4 5 to the motor shop. 6 Were you paid while you 7 worked at the motor shop? 8 Α. No. 9 What was your first job after 10 Liberty Ridge where you were paid? 11 I believe working with Leroy. 12 Q. Okay. And remind me the work 13 that you were doing with Leroy. 14 He owned a commercial hog 15 farm, and he also owned a brush grinding 16 company, and he pumped out coal mines. 17 Q. Were you paid by the hour? 18 Α. No. 19 Q. How were you paid? 20 Α. He had set up a bank account 21 for me where any -- any money he paid me 22 would go into the bank account until I 23 was, believe, 21. And the money was just 24 there until I was 21, but I ended up --



Page 72 we ended up going back and taking the 1 2 agreement away, and he gave me the money once I moved out of there. How much money was that? Q. \$800, not very much. 5 6 And how long had you been Ο. 7 working for him? 8 I'm going to say probably 9 like six months, seven months. 10 And he gave you that money --Ο. 11 did he give you that money in cash? 12 Α. Eventually, yes. 13 What do you mean by Q. 14 eventually? 15 Α. Once I moved out of there, I had moved out west, like, a group of 16 17 Mennonites in Illinois, and I had lived 18 out there for a while, and he was paying 19 my rent when I had an apartment out 20 there. So when I turned 18, I moved back 21 with my family. I needed the money, 22 obviously. And he didn't want to give me 23 the money, so I had my probation officer



get in contact with him, and he got the

24

Page 73 1 money. 2 You said that Leroy was Q. 3 paying your rent when you had moved out to Illinois? 5 Α. Yes. 6 Do you know whether he was Ο. 7 paying the rent from the account he 8 opened for you or his own account? 9 No, it was -- it was his own. 10 Q. His own account? Okay. 11 And before I move on, really 12 quickly, again, sorry if you said this, 13 who was the owner of the motor shop? I can't remember if his name 14 was Melvin Burkholder. But I know that 15 his son was co-owner of the ranch. His 16 17 name was Lowell. 18 Noel? 0. 19 Α. Lowell, yes. L-O-W-E-L-L. 20 The company was Burkholder's Motors in 21 Myerstown, PA. They had -- the family I 22 lived with there, they had been prior 23 house parents at Liberty Ridge. That's 24 how they knew who I was, and I guess



Page 74 that's why they agreed to take me in. 1 2 How long were you in Q. Illinois? 3 Α. Until I was 18. And then 5 when I turned 18, I moved back to New 6 Jersey. I met my biological family 7 online, and then I moved through --8 straight from Illinois to New Jersey. 9 When you were in Illinois, 10 did you work any jobs? 11 Yes, I helped with a butcher 12 shop, and then I help with a metal 13 fabricating shop. 14 Q. For the metal fabricating 15 shop, what sort of things did you have to 16 do? 17 Cut sections of the metal Α. 18 wall for -- they were building, like, I 19 quess they call them automatic crowd 20 gates for dairy farms in the milking 21 parlors. And they would have these 22 sheets of metal come in, and it was my 23 job to cut it off at a certain line, 24 sometimes help put the metal together,



Page 75 weld it, stuff like that. 1 2 Did you have to be trained to Q. do that? Α. No. 5 Did you already know how to 6 do that before you had that job? 7 I mean, no, not necessarily, 8 no, but it wasn't -- didn't take a genius 9 to figure it out. 10 Q. So after Illinois, you 11 reconnect with your biological family 12 back in New Jersey. 13 Correct? 14 Α. Yes. 15 Q. Okay. So take me to where 16 you were right after Illinois. 17 You go to New Jersey, and 18 then what job, if you can remember, were 19 you working when you were in New Jersey? 20 I got a factory job. I had 21 gotten a factory job at a bakery. And 22 then I had gotten another factory job at 23 a place that did meat processing. What sort of things were you 24 Q.



- 1 doing at the factory?
- 2 A. Washing the mats that came
- 3 off the bakery lines so they could go
- 4 back out for -- for the pastries to go on
- 5 to go through the machines. Then, I did
- 6 line where I would just stand there
- 7 and make sure there's no defects.
- 8 Q. I'm sorry. You cut out. If
- 9 you could repeat yourself.
- 10 A. I wash -- I would wash the
- 11 mats that would come in dirty and then
- 12 send them back out. And then I worked on
- 13 the line checking the -- the pastries
- 14 that would come out and make sure they
- 15 weren't defected. That was at the
- 16 bakery.
- 17 And then, at the meat
- 18 processing place, I would just package
- 19 and process the steaks that came out, box
- 20 them, palletize them.
- Q. At the bakery and the meat
- 22 processing place, how many hours were you
- 23 working per week?
- 24 A. Eight to four, six, seven



Page 77 days a week. 1 2 How were you paid? Q. 3 Α. Over the table, on the books. I was working through a temp agency at 5 the time. 6 Did you say over the table? Ο. 7 Α. Yeah. It was on the books. 8 Okay. So were you getting a Q. 9 paycheck? 10 Α. Yes. 11 And were you cashing your 12 paycheck into your personal bank account? 13 No, I did not have a bank 14 account. I was taking it to a check 15 cashing place and just receiving cash. 16 Q . Okay. Do you currently have 17 a bank account? 18 Α. No. 19 Switching gears a little bit. Q. 20 David, how long -- if you know, how long 21 will you be incarcerated? 22 My minimum is May of next 23 year, and then my max is May of 2026, I 24 believe, or 2025. One of the two. I



Page 78 believe 2026. 1 2 Q. Have you learned any skills 3 or done any sort of certification classes while you've been incarcerated? 5 Α. No. 6 When you are released from Ο. 7 incarceration, what sort of jobs or 8 employment do you think that you will 9 look for? 10 A. I'm planning to go to back to 11 New Jersey. There's a glass factory down 12 there that my family's been working in 13 for most of their lives, and I plan to go 14 back there. 15 Q. Have you worked in that glass factory before? 16 17 I did one time, yes. 18 Okay. What kind of work were Q. 19 you doing there? 20 Packaging glass and Α. 21 palletizing. 22 Okay. Were you paid? Q. 23 Α. Yes. 24 Q. How were you paid?



```
Page 79
             Check.
1
          Α.
 2
                Check. Okay. And then you
          Q.
    would cash that check?
 3
          Α.
                Yes.
 5
                MS. MENDEZ: Okay. David,
 6
          That is all I have for you at the
7
          moment. Your attorney may want to
8
          ask you some questions, but I am
9
          all set. Thank you.
10
                MS. FRANCHI: Before I ask
11
          any questions, I was going to see
12
          if we could take a bit of a break.
13
          And I don't know -- again, I don't
14
          know what -- because nobody from
15
          the prison came back in, so I don't
16
          know if you're able to go if you
17
          need to use the restroom. I don't
18
          know what the situation is or if
19
          you just have to sit there.
20
                 THE WITNESS: No, I'm good.
21
                MS. FRANCHI: You are? Okay.
22
          I would say maybe -- I was going to
23
          say 15. You want to do -- yes,
24
          we'll do like 15 minutes. I don't
```



```
Page 80
          want to make David sit there for
1
2.
          too long. So, yes, if that's okay
3
          with you guys, like 15 minutes.
          I'm just going to take a look at
          everything, grab a snack, come
5
6
          back, and then hopefully be able to
7
          wrap this up sooner rather than
8
          later. All right.
9
10
                 (Whereupon, a brief recess
11
          was taken.)
12
13
                    EXAMINATION
14
15
    BY MS. FRANCHI:
               Okay. So David, I just have
16
          Q.
17
    a few kind of follow-up questions for you
18
    on top of some of the question that
19
    Jocelyn had. I don't imagine it'll take
20
    too long, but I just kind of wanted to go
21
    over a few things. So first, I want to
22
    talk a little bit about leading up to you
23
    going into Liberty Ridge. Tell me a
24
    little bit about -- I'm just going to
```



- 1 generally call it your mental health
- 2 background. Tell me a little bit about
- 3 what was going on before you went into
- 4 Liberty Ridge and specifically like
- 5 diagnoses, medication, things like that.
- 6 A. I was on medications I took
- 7 for ADHD, anxiety, depression, shit --
- 8 stuff like that. That's as good as I can
- 9 put it.
- 10 Q. Okay. And were you seeing a
- 11 psychiatrist or any sort of a therapist
- 12 when you were younger?
- 13 A. Yes, I was seen by a
- 14 psychiatrist at Philhaven and a
- 15 psychiatrist, Dr. Walker.
- 16 Q. Okay. Now tell me a little
- 17 bit more just about -- you told me about
- 18 what medications you were on, that you
- 19 had seen a therapist and a psychiatrist,
- 20 do you have a background of any sort of
- 21 trauma or abuse before you came into
- 22 Liberty Ridge?
- 23 A. Yes, as a child, younger
- 24 child.



```
Page 82
                 Tell me about that a little
1
          Q.
2
    bit.
3
                 Yes, as a younger child prior
          Α.
4
    to being adopted and stuff, I guess the
5
    home situation wasn't the best, things
6
    like that.
7
                Okay. And we can just talk
          Q.
8
    about it generally. I think that kind of
9
    the point is just to kind of let them get
10
    to know you a little bit more about your
11
    background and what led up to Liberty
12
    Ridge.
13
                 So did you have any sort of
14
    traumatic background, like childhood
15
    sexual abuse or any physical abuse,
16
    anything like that?
17
                 Yes, sexual and physical --
18
                 Can you tell -- sorry. I
19
    didn't mean to interrupt you. There's a
20
    bit of a delay.
21
                 Sexual and physical both.
          Α.
22
          Q.
                Okay. As a child?
23
          Α.
                 Yes.
24
          Q.
                Okay. And did -- you think a
```



Page 83 lot of this kind of lead up to you going 1 2 to see the psychiatrist, going to see the 3 therapist, and being on these medications? 5 Α. Yes. 6 Ο. Do you know of any other 7 diagnoses that you had or have? You've 8 mentioned ADHD, anxiety, depression. 9 I believe while I was 10 incarcerated, they diagnosed me with 11 severe mood disorder, multi-personality 12 disorder. Those are two that I can 13 remember aside from the others. 14 Now going into Liberty Ridge, 15 did they -- when I say they, did Liberty 16 Ridge have you undergo any sort of 17 therapeutic evaluations or see a doctor or anything like that? 18 19 Α. No. 20 Q. Okay. Now while you were at 21 Liberty Ridge, I know that there was a 22 note that you had seen Dr. Walker maybe 23 once or twice when you were there.



Did your psychiatric

24

Page 84 treatment continue throughout the entire 1 time when you were at Liberty Ridge? Α. No. Q. Tell me about that. I believe I've seen him maybe 5 6 twice. Things about my childhood started 7 coming out, and I guess my parents wanted 8 to just shut it down before it got out 9 and everything, before things went too 10 far and ended up looking bad on them. 11 And they discontinued it. 12 Were you on any sort of 13 medication when you were at Liberty 14 Ridge? 15 Yes, for the duration of the times I had seen Dr Walker. I do not 16 17 recall what they were, though. 18 Okay. At any point when you 19 were at Liberty Ridge, did any Liberty 20 Ridge staff or any member of Liberty 21 Ridge make any comments to you about your 22 medication or take you off it?



Who was that?

A. Yes, yes.

Q.

23

24

Page 85 I believe Ethan Weaver had 1 Α. 2 taken me off medication, and then I 3 remember I had gone somewhere with Nelson, and Nelson -- I got in the vehicle and I fell asleep 'cause 6 medication put me to sleep, and Nelson 7 asked me what I was on, and I told him, I 8 said it's my medication. And then that 9 was around the time they took me off of 10 it. 11 Q. When you say they, the 12 Liberty Ridge staff took you off it? 13 Α. Yes. 14 Was this at the direction of 15 any doctor or anybody that you know of? 16 Not that I recall. Α. 17 So let's talk a little bit about working when you were at Liberty 18 19 Ridge. Tell me about how often you would 20 work during the day, not including 21 consequences, when you were at Liberty Ridge. 22 23 A. Pretty much from sunup to 24 sundown.



- 1 Q. And I know Jocelyn had
- 2 mentioned a little bit about some of the
- 3 farming that you would do, working in the
- 4 garden, tending to some of the animals,
- 5 and I know she talked briefly about the
- 6 shop but not much. So tell me about the
- 7 actual labor that you did, not including
- 8 the garden that was used to supplement
- 9 the food, but the actual work that you
- 10 were doing.
- 11 A. They had -- I guess they had,
- 12 like, an agreement with this sawmill
- 13 company, Jones's Lumber, and they had me
- 14 and another person that was a resident
- 15 there, and they would take us there and
- 16 drop us off. And we would help stack the
- 17 lumber and -- and organize stuff there.
- 18 We were not paid for that.
- 19 They had -- when they brought
- 20 their 50 by 80 pole barn into the
- 21 picture, they had us -- me and that same
- 22 individual, cut down a bunch of trees
- 23 that were, like, in the backside of the
- 24 property where they could build the --



Page 87 where they would build the -- the 1 2 building. And then -- yeah, that's 3 basically as far as, like, the hard manual labor went. That was about it. 5 Was this off site? 0. 6 Α. When they brought the 7 building -- when they brought the -- the 8 structure to the property, we had gone to 9 that -- that property to help disassemble 10 it. And I remember, when we were there, 11 they had made other kids there smashing 12 down this concrete. Like -- it was like 13 -- it looked like a little small chicken 14 coop. And I remember, we had to tear it 15 down. Like, we just smashed all the blocks down. 16 17 And then when they brought 18 the structure to the -- to the facility 19 there at Liberty Ridge, they did have us 20 help put the structure together. 21 Were there any other times Q. 22 that you were taken off site to do any 23 work?



Yes.

24

Α.

```
Page 88
                MS. MENDEZ: Objection to
1
2
          form.
3
                 THE WITNESS: We went to --
          yes, we went to Ethan Weaver's
5
          property down in Chambersburg to
6
          help him unload chickens when they
7
          came in.
8
    BY MS. FRANCHI:
9
             And is there anything else
10
    that you recall off site?
11
          Α.
                I believe we had helped
12
    Nelson Martin with a project over at one
13
    of his properties in Myerstown, blowing
14
    insulation into a building.
15
             Okay. And were you tied
    for -- tied, right -- were you paid for
16
    any of the work that you did off site?
17
18
          Α.
                No.
19
          Q.
             Okay. Tell me about the work
20
    then that was performed at Liberty Ridge
21
    that were at the various businesses that
22
    came in that you did work for, that you
23
    remember.
24
                MS. MENDEZ: Objection to
```



```
Page 89
          form.
1
2
                MS. FRANCHI: You can answer.
3
                THE WITNESS: The -- The gate
          company. We helped with the
          chickens there. While I was there,
5
6
          they only had the gate company and
7
          the chicken companies. The pallet
8
          company was not there at the time.
9
    BY MS. FRANCHI:
10
             Okay. And now I want to
11
    shift gears a little bit. I want to talk
12
    more about consequences. Tell me about
13
    the types of consequences that you had to
14
    undergo while you were at Liberty Ridge,
15
    starting from, I guess, the least severe
16
    to the most severe.
17
                The post hole digging, the
    crushing the stones, the digging the
18
19
    French drains.
20
                Then, there was -- I remember
21
    the time when I had witnessed one
22
    individual having to run laps while they
    followed him in the truck. I remember I
23
24
    stuck up for him, and they gave me
```



- 1 consequences for sticking up for him
- 2 because I thought it wasn't right how
- 3 they were treating him, and they made him
- 4 and I use a two -- two-handed saw to cut,
- 5 like, chunks of wood off of a log and
- 6 then -- and that's when I had brought it
- 7 up to him about running away from Liberty
- 8 Ridge. So they separated us, and they
- 9 left him go.
- And then for, like, egging
- 11 him on to want to leave the facility,
- 12 they made me dig a tree stump out. And
- 13 then I had to write -- write a bunch of
- 14 sentences. Writing sentences, Bible
- 15 verses, writing things like I will behave
- 16 at all the times and listen to my
- 17 mentors. We --we were writing like 600
- 18 lines like that on pieces of paper.
- 19 Digging the French drain was
- 20 probably the most traumatic to me because
- 21 they made me stay out all night and dig
- 22 for hours on end, and then they brought
- 23 me, like, a sandwich and -- and a cup of
- 24 water in between. And the next day, my



Case 5:21-cv-05070-PAC Document 44-1 Filed 01/20/23 Page 92 of 772 Page 91 behavior started getting worse after 1 2 that, so they -- pretty much, I just would -- I would tell them I'm not going to dig. Look, I'm not going to do this. 5 So you cannot make me do this. 6 So they would -- eventually, 7 they started, like, adding the 8 consequences on to the point where that I 9 had to go to sleep, you know, and then 10 when I woke up, they would make me go 11 back and dig some more. 12 I wasn't allowed to talk to 13 the other children that were there, the 14 other boys there. I wasn't allowed to 15 speak to them while I was dealing with 16 consequences. Stuff like that.

- 17 So I want to talk a little
- bit about the specific consequences. So 18
- 19 when you were doing -- I guess, let's
- 20 focus specifically on the French drain.
- 21 Tell me about leading up to
- 22 having to dig the French drain, what
- 23 happened?
- I believe I had tried to 24 Α.



- 1 leave Liberty Ridge. I walked off the
- 2 property, and I told them that I was
- 3 going to go out to the neighbors and tell
- 4 them what they were doing to us there,
- 5 'cause it was a -- like, nobody else
- 6 around the town really knew what the
- 7 place was and what was going on behind
- 8 closed doors.
- 9 So they brought me back and
- 10 told me that, if I tried to run away, the
- 11 police -- they would turn me in to the
- 12 police. The police would bring me back.
- 13 And then they sat down, the mentors,
- 14 and -- and we were sat down and discussed
- 15 the punishment, and they showed me where
- 16 I had to dig.
- 17 And I remember, while I was
- 18 digging, I ended up falling asleep while
- 19 I was standing in the hole trying to dig.
- 20 Pretty much the trying to leave the
- 21 facility is what led up to that.
- 22 Q. So how long -- actually,
- 23 let's go back. For those of us that
- 24 don't know exactly what a French drain is



- 1 or what this scenario is like, explain to
- 2 us a little bit about what digging a
- 3 French drain means.
- 4 Is it like a little hole in
- 5 the ground or is it something more?
- A. No, it was more than that.
- 7 It was like a -- like on the backside of
- 8 a house where they housed the house
- 9 parents, where Ethan and Ruby lived.
- 10 There was a pipe that came out the back
- 11 for the washing machine and where the
- 12 water would drain off.
- So instead of having the
- 14 water drain around the house, there was a
- 15 hole -- I can't recall exactly how deep
- 16 it was, but at the beginning of the hole,
- 17 it was fairly deep, and then there was a
- 18 narrow -- and they took stones and then
- 19 there was a narrow trench that went
- 20 around the side of the property where
- 21 they had a hole that was very, very deep
- 22 that I had to dig. And that's where the
- 23 water would drain off into.
- So I had never needed help to



Page 94 get out of the hole when -- by the time I 1 2 was done digging it, like, it wasn't --3 it wasn't like I just dug a little bit and then crawled back up out of it, you know what I mean? I was there for hours 6 on end. 7 Q. Okay. Now about how -- oh my 8 gosh, I'm starting to lose my voice, 9 terrible timing. 10 About how long was this 11 trench that you had to dig? 12 Α. I'm going to say 20, 30 feet 13 long. And were you standing in the 14 Ο. 15 trench? 16 Α. Yes. 17 And to the extent that you're able to remember, did it come up to your 18 19 shoulders? Was it over your head? 20 Somewhere in between? 21 The -- the back of the house 22 where they first started digging, it was 23 probably about to my waist, and then the 24 trench at least up to my waist, and then



Page 95 the hole at the end by the -- by the road 1 2 there was I'm going to say couple feet 3 deep, but like, more than I could crawl up out of by myself. 5 And how -- around what time 6 did you start this consequence? 7 I can't recall exact times. Α. 8 Like, I know I worked through the night 9 hours, though. 10 Q. If you could approximate, 11 about how many hours were you digging 12 this trench for? 13 I want to say at least two --14 two days or so. 15 Q. Okay. And --16 Α. More or less. 17 Q. -- at any point could you sleep while you were digging this trench? 18 19 Α. No. 20 What would happen if you fell 21 asleep while you were digging? 22 They would just wake me up 23 and tell me I had to keep digging or add



24

time on.

Page 96 Did you get any food or water 1 2 during these days of digging this trench? 3 A couple times. Maybe two times I got a sandwich and a cup of 5 water. 6 Were you allowed to stop at 7 any point other than when they gave you a 8 sandwich and a cup of water? 9 Α. No. 10 0. Who was out there? Was 11 anybody supervising you when you were 12 doing this? 13 Ethan was out there, a guy by 14 the name of Austin Martin, and a guy by 15 the name of Lynden Graham. 16 Q. About how old were you when 17 this was happening? Between 14 and 17. So 18 Α. 19 probably like -- it was towards the end 20 of my time there. So I was probably 16, 21 17. 22 Okay. Were there any other 0. 23 times that you had to do a consequence 24 either overnight or at night?



Page 97 Plenty of them. 1 Α. 2. What were they? Q. 3 Post hole digging, digging Α. the stump. Next to the schoolhouse, they had this, like, area where they made me 5 6 dig, and I didn't -- I don't even 7 remember what it was for. I just 8 remember that it was, like, in the side 9 of the hill, and they just made me start 10 digging into the side of the hill. And 11 they were -- I don't know if they were 12 going to put something in there, like a 13 root cellar or something like that. 14 remember having to dig overnight for 15 that. 16 Q. Were there any times that you 17 had to perform consequences off site? 18 Yes. We had gone out to Lake 19 Erie to see -- visit one of Ethan's 20 daughters that live out there with her 21 and her husband. We went out there to 22 visit them. And I remember I misbehaved 23 over there, and they made me dig, like, 24 three post holes. It was, like, areas



- 1 where they were going to dig -- plant
- 2 trees and stuff.
- 3 Q. Whose property was it that
- 4 you know of?
- 5 A. Darrell Martin, I believe his
- 6 name is. It's Ethan's son-in-law.
- 7 Q. Were there any times that you
- 8 were restrained in any way while you were
- 9 at Liberty Ridge?
- 10 A. Yes, a couple of times.
- 11 Twice that I can at least remember. The
- 12 one time they had zip tied my feet and
- 13 held my hands behind my back or they had
- 14 zip tied my hands and held -- and they --
- 15 and bent my feet forward and sat on top
- 16 of them so I couldn't move and just kept
- 17 me out there like that for a couple
- 18 hours.
- 19 And then another time, they
- 20 just put my hands behind my back and made
- 21 me lay face down on the ground, and
- 22 Robert had came out to -- they said he
- 23 wanted to come out and talk to me. He
- 24 came out, and he appraised me. He made



- 1 sure I was okay. I -- I was scared of
- 2 him. I didn't know -- I didn't know what
- 3 was going to happen, you know.
- 4 Q. Tell us about the time --
- 5 these two different incidents then where
- 6 you say that you were either tied up or
- 7 restrained. You'd mentioned one time
- 8 that you were zip tied. Explain to us a
- 9 little more about that situation.
- 10 A. I basically refused to do
- 11 what they told me to do, and they told me
- 12 I wasn't allowed to get out -- like, get
- 13 out of doing the consequence, and I tried
- 14 to walk away.
- 15 Q. And then what happened?
- 16 A. I believe they had grabbed --
- 17 like, they gripped me up and then I tried
- 18 to, like -- was struggling, and then they
- 19 put me on the ground face down and
- 20 restrained me.
- 21 Q. And what -- you said you
- 22 were -- is this the time that you were
- 23 tied up?
- 24 A. Yes.



```
Page 100
                 And what part of you was
1
          Q.
 2
    tied?
                My wrists.
           A .
                 And how long did you remain
           Q.
5
    tied up?
 6
           Α.
                 A couple hours.
7
                And where were you?
           Q.
8
           Α.
                 I was -- remember it was out
9
    in the shop where they build the gates,
10
    'cause there was a tree they had cut
11
    down. They were making me dig out the
12
    stump.
13
          Q.
                So you were outside?
14
          Α.
                 Yes.
15
          Q.
                 Were you face down?
16
          Α.
                 Yes.
17
          Q.
                 What were you laying on top
    of?
18
19
           Α.
                 The ground.
20
           Q.
                 What was on the ground? Was
21
    it grass? Was it rocks, dirt?
22
                 Stones, yeah.
           Α.
23
                 At any point did you ever
           Q.
24
    lose any feeling in your hands, anything
```



Page 101 like that? 1 2 Α. Yes, I remember my hands had 3 gotten numb after a while and both my feet and hands had gone numb. 5 Q. At what point were you 6 released? 7 A. I'm going to say within, 8 like, two hours -- two, three hours with 9 them restraining me. 10 Q. What time of the day was 11 this? 12 A. It was during the middle of 13 the night. 14 Q. And then you said there was 15 one other time that you may have been 16 restrained? 17 A. Yes, when I was digging the French drain, when I swung the digging 18 iron at Ethan, they grabbed me and put me 19 20 on the ground. 21 Q. And were you tied at that 22 time or just physically restrained? 23 A. No, just restrained. 24 Q. And how long were you



```
Page 102
    restrained for?
1
2
           Α.
                 Hour or two.
3
                 And then did you have to
           Q.
    continue working after that?
5
           Α.
                 Yes.
6
                 So we all know that you have
           Ο.
7
    a history of mental health issues, you
8
    were on medication, things like that.
9
                 At any point when you were at
10
    Liberty Ridge, when you either became
11
    angry or you -- you had said that you had
12
    swung something at Ethan, anything like
13
    that, did they ever take you to a crisis
14
    center or to a hospital or anything like
    that?
15
16
           Α.
                 No.
17
                 Did they ever take you for
    psychiatric care after one of these
18
19
    incidents?
20
           Α.
                 No.
21
                 Did they ever call the police
           Q.
    after one of these incidents?
22
23
           Α.
                 No.
24
                 Now I want to shift gears a
           Q.
```



```
Page 103
    little bit to schooling when you were at
1
2
    Liberty Ridge.
                 Was this a structured school
4
    setting?
5
          Α.
                 No.
6
                 Tell us a little bit about
          Q.
7
    it.
8
          Α.
                 I'd pretty much get up,
9
    during the daytime whatever, at a certain
10
    time, I'd have to go out to school, and
11
    there would be another individual in
12
    there with the schoolteacher, who was
13
    also his mentor, and I would just sit
    there for, like, couple hours, two or
14
15
    three hours, like maybe 12 to 3, and do
16
    my homework and stuff like that, and
    they, they would let me go.
17
18
                 Was this every day?
          Q.
19
          Α.
                 No, not every day, no.
20
          Q.
                 Was there any structured
21
    curriculum or anything like that?
22
          Α.
                 No.
23
                 Were there ever times that
          Q.
24
    you just didn't do the work?
```



```
Page 104
                Yes, which resulted in
1
          Α.
2
    consequences.
3
                 Okay. Now at any point did
          Q.
    your schooling just stop?
5
          Α.
                 Yes.
6
          Ο.
                 When was that?
7
          Α.
                 Towards the latter time.
8
    not until about 15, 16, middle of 16.
9
               So I want to talk a little
10
    bit about -- I know that Jocelyn showed
11
    you a letter to your parents and that
12
    remained in your Liberty Ridge file.
13
                 Were you aware that Liberty
14
    Ridge was not sending your mail to your
15
    parents?
16
          Α.
                 No.
17
                 Was that a little bit
          Q.
    shocking to you to see that in your
18
    discovery packet?
19
20
          Α.
                Yeah. Yes.
21
          Q.
                 Everything that you
22
    communicated via writing or outwardly on
23
    the phone at any point when you were at
    Liberty Ridge, was all of your
24
```



- 1 communication monitored by Liberty Ridge?
- 2 A. Yes, phone calls, there was
- 3 always some -- there was always somebody
- 4 on the other end of the phone listening.
- 5 When my parents came to see me in two
- 6 times, there always was a mentor around
- 7 or Ethan and we -- Ethan and -- or
- 8 whoever was house parents at the time.
- 9 Letters, obviously they
- 10 monitored the letters if they kept my
- 11 mail from going out. So I don't know
- 12 what else they did.
- Q. What would happen if you were
- 14 to write anything against Liberty Ridge
- 15 in any of your communications?
- 16 A. I can't say that I
- 17 necessarily wrote anything against
- 18 Liberty Ridge in my communications,
- 19 because I was afraid that something would
- 20 happen, you know.
- Q. What do you mean by that?
- 22 A. Consequences or -- pretty
- 23 much I was afraid that there would be
- 24 consequences because of it.



Case 5:21-cv-05070-PAC Document 44-1 Filed 01/20/23 Page 107 of 772 Page 106 Tell me a little bit about 1 2 your relationship with the mentors, 3 specifically how you were treated by the 4 mentors and just their behavior. 5 I remember them keeping 6 journals about my behaviors. The first 7 mentor, him and I kind of got along, and 8 then down the road, we didn't -- I didn't 9 really get along with them. I remember 10 having taken too long in the shower, and 11 then they would eventually stand in the bathroom or stand outside the door and 12 13 monitor as I was getting showered and 14 that's what I was doing and -- and stuff 15 like that. They put a strain on my 16 relationship with them. 17 Do you ever feel at any point when you were at Liberty Ridge that, due 18

- 19 to your mental health, that you were
- 20 being instigated?
- 21 A. Yes, absolutely.
- Q. Tell me a little bit about
- 23 that.
- 24 A. I just felt like that pretty



- 1 much kind of think I'd put it -- if I
- 2 needed -- like, let's say that I didn't
- 3 have -- they would put, like, limits on,
- 4 like, consequences, and if I didn't have
- 5 it done in a certain time, they would add
- 6 consequences on to it or -- and things
- 7 like that. It was like they -- they gave
- 8 me -- made me do things that would --
- 9 that would honestly bring a negative
- 10 reaction to me, and they would find a
- 11 reason to add consequences on to my
- 12 reactions to everything.
- Q. Do you think that the longer
- 14 that you were there without mental health
- 15 treatment the worst it got?
- 16 A. Oh, definitely.
- 17 Q. Now Counsel had asked you
- 18 some questions about your access to
- 19 Facebook, things like that.
- So just to be clear, when was
- 21 the last time that you were incarcerated
- 22 leading up to now being incarcerated?
- 23 When were you first picked up for this
- 24 stint?



```
Page 108
          A. On this bid right now or
1
    prior offense?
2
          Q.
                Yes. This one.
          Α.
                This stint right now, I was
    arrested May of this year.
5
6
             Okay. And you've been
          Ο.
7
    incarcerated that whole time?
8
          Α.
                Yes.
9
             Have you had any access to
10
    social media or anything like that while
11
    you've been incarcerated since May?
12
          Α.
                Not in here, no.
13
          Q.
                Okay.
14
                My fiancee has my Facebook
    and stuff, and I've had, like, her put my
15
    pictures of my daughters and stuff on
16
17
    there, but other than that, no.
18
                Okay. But you haven't had
19
    access, not like one of those jails where
20
    you get an iPad and you get Facebook
21
    access?
22
          Α.
                No.
23
          Q. Okay. And so you're now at
24
    SCI Somerset?
```



```
Page 109
1
          Α.
                 Yes.
2
                 Have you been in one place
          Q.
3
    long enough to be able to start any
    programming or anything yet?
5
                 Yes. I started my
6
    programming yesterday, I started.
7
                 Before you were at SCI
8
    Somerset at any of the other state
9
    prisons you were at, were you in any of
10
    them long enough to do any programming?
11
          Α.
                 N \circ .
                      They were only
12
    classification prisons.
13
                 MS. FRANCHI: Okay. All
14
          right. I'm going to ask for three
15
          minutes to just take a look at my
16
          notes, and then I don't think there
17
          is much more that I have, but I
18
          just want to take a look. I've
19
          been having issues with my
20
          keyboard, and I -- when I type
21
          things, all the sudden a letter
22
          will just go cross the whole page.
23
          So I just need to go back and take
           a look and after that I won't have
24
```



```
Page 110
          much more, and then if Jocelyn has
1
2.
          other questions, and then we can
3
          wrap it up.
                 (Whereupon, a brief recess
6
          was taken.)
7
8
    BY MS. FRANCHI:
9
              Tell me a little bit about
10
    the incident. You were explaining about
11
    the child that was running and what
12
    happened with the truck. I know we kind
13
    of glossed over it a little bit, but I
14
    was hoping you could tell me a little bit
15
    more about it.
16
             I don't remember what the
17
    consequences were for that he received,
18
    but we were eating lunch while it was
19
    taking place. And they made him run,
20
    like, around the complete driveway, all
21
    the way around. Like, I don't know how
22
    many laps, 20 laps, whatever it was, and
23
    they followed him in the truck, and I
24
    just basically -- I voiced my displeasure
```



- 1 with how they were treating him. They
- 2 were following him very close behind in
- 3 the truck. Nobody was -- was out with
- 4 him. It's just him running and the other
- 5 two were in the truck following him.
- Q. Was this like a leisurely jog
- 7 with the truck following him or was he
- 8 running because the truck was basically
- 9 making him run faster?
- 10 A. I can't say for sure, but I
- 11 know that from seeing what I seen and
- 12 if -- if I was in his shoes, I'd have
- 13 been running because of the truck
- 14 following me.
- 15 Q. Okay. You weren't the one
- 16 who was out there running though.
- 17 Correct?
- 18 A. No.
- 19 Q. Do you remember who was in
- 20 the truck?
- 21 A. Ethan and I believe Chris
- 22 Eversole.
- Q. So I guess to kind of wrap
- 24 this up and I guess after leaving Liberty



Page 112 Ridge and just kind of seeing how your 1 2 life has unfolded since then, I guess 3 kind of in your words, how do you think that your experience there has affected 5 you? 6 I would say, unfortunately, 7 Liberty Ridge destroyed me as an adult --8 as becoming an adult. And it gave me a 9 lot of hate and a lot of anger towards a 10 lot of different people and -- and led 11 over to outside of the Mennonites, and it 12 just got me into a lot of -- lot of 13 trouble and I would say destroyed me as a 14 whole. Have you ever been able to 15 16 hold a job for any extended period of 17 time since you left Liberty Ridge? 18 No, not at all. Α. 19 Do you really have any job Q. 20 experience or job skills other than what 21 you were saying about stacking pallets and things like that? 22 23 Α. No. MS. FRANCHI: I think those 24



```
Page 113
          are all the questions that I have.
1
 2.
          I think I'm done. That was longer
          than I intended. I apologize.
 3
                MS. MENDEZ: All good. Just
          a couple quick follow-up questions
 5
 6
          from me. I think just one or two.
7
8
                   EXAMINATION
9
10
    BY MS. MENDEZ:
11
          Q.
             David, I want to go back to
12
    the time that you were restrained in
13
    response to attempting to strike Ethan
14
    with a tool. I think you mentioned it
15
   was some sort of tool.
16
          A. Yes.
17
          Q. Can you think of any time
    where you used your fists to hit Ethan?
18
19
          Α.
                No.
20
                How about any other person at
    Liberty Ridge?
21
22
             One other person was my
23
    mentor. I believe it was Brenden Hoover
24
    and Austin Martin were there.
```



Page 114 And you -- did you hit them? 1 Q. 2 Yeah, I hit him in his chest. Α. 3 I remember one other time towards Ethan. I was downstairs in the basement, and he 5 was approaching me. And I don't know 6 why, but some -- sometimes fear was 7 inside of me about him approaching me and 8 I got a chair, and I told him I was going 9 to throw it at him if he came any closer. 10 Other than that, no, nothing else. 11 Q. Okay. Do you recall ever 12 spitting on a mentor or Ethan? 13 Yeah, a couple times. 14 Ο. Going to go back a little 15 bit. Just a couple more questions here. 16 Thinking back to your time 17 before you became a resident at Liberty 18 Ridge, were you angry or violent as a 19 child? 20 Α. Yes, in a way. 21 Had you ever been violent Q . 22 with your dad? 23 A. Yes, but -- I mean, yeah, as 24 a child, yes, but I was disciplined for



Page 115 it. 1 2 O. Okay. And one more time, can 3 you just talk to me about what that discipline was? I remember he held me down 5 6 and beat me with his belt. Other than 7 that, corporal punishment. 8 What sorts of things -- as a 9 child, what sorts of things would you do 10 that would lead to the corporal 11 punishment? 12 Just doing exact opposite of 13 what I was told to do. 14 Were you ever violent with 15 any of your siblings? 16 We fought and like siblings do but, like, I don't know. 17 18 And while you were at your 19 parents' house before -- I quess before 20 your uncle's house and then before 21 Liberty Ridge, so while you were still 22 with your parents, what chores did you 23 have to complete while you were there? 24 Α. While I was at my parents'



```
Page 116
    house?
1
 2
                At your parents' house, yes.
          Q.
 3
                Take the slop out at the end
          Α.
    of the day. We had a couple horses and a
 5
    couple chickens growing up. Help feed
 6
    the animals; help pull weed in the --
7
    pull weeds in the garden. Stuff like
8
    that. Mow the lawn. Stuff like that.
9
             Did you -- were you ever
10
    punished if you didn't perform your
11
    chores at home?
12
          A. Yeah.
13
                And were those punishments
14
    the -- some of the same things that you
    mentioned earlier?
15
16
          A. Yes.
17
             Including the corporal
          Q .
18
    punishment?
19
          Α.
                Yes.
20
                MS. MENDEZ: Okay. All
21
          right. David, that's all I have
22
          for you.
23
                THE WITNESS: All right.
24
          Thank you.
```



```
Page 117
                MS. MENDEZ: Thank you, too.
1
 2
                 THE WITNESS: All righty.
                MS. FRANCHI: I think we're
          good.
                 THE COURT REPORTER: Great.
          Hi, this is the court reporter. Is
7
          Mr. Cross reading and signing the
8
          transcript or will he be waving?
9
                MS. FRANCHI: So getting
10
          David the transcript will be
11
          difficult. So David, the question
12
          is whether you would want to read a
13
          copy of the transcript and make
14
          sure that everything in it is
15
          correct or if you agree that the
16
          court reporter would have taken it
17
          down correctly and waive your
18
          signing.
19
                 THE WITNESS: Waive my
20
          signing.
21
                MS. FRANCHI: Okay.
22
                 THE COURT REPORTER: Great.
23
          Thank you. And just transcript
          orders from counsels.
24
```



```
Page 118
                 MS. FRANCHI: Yes. And --
1
2
                 MS. MENDEZ: Ordering.
                 MS. FRANCHI: Yes. And I
          only need an electronic copy.
5
                 THE COURT REPORTER: Okay.
6
          Is the regular -- same? Okay. Is
7
          the regular delivery okay, 8 to 10
8
          days?
9
                 MS. FRANCHI: Yes.
10
                 MS. MENDEZ: Works for me.
11
12
                 (Whereupon, the Witness was
13
           excused.)
14
15
                 (Whereupon, the deposition
16
           concluded at approximately 10:47
17
           a.m.)
18
19
20
21
22
23
24
```



```
Page 119
1
                    CERTIFICATE
2
 3
 4
                 I HEREBY CERTIFY that the
5
    Witness was duly sworn by me and that
6
    the deposition is a true record of the
    testimony given by the Witness.
7
8
9
10
          __ Danijela Avanovic_____
          DANIJELA IVANOVIC,
11
          Court Reporter and Notary Public
          Date: December 20, 2022
12
13
14
15
16
17
                 (The foregoing certification
    of this transcript does not apply to any
18
19
    reproduction of the same by any means,
    unless under the direct control and/or
20
21
    supervision of the certifying reporter.)
22
23
24
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EXHIBIT B

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. and R.M.,

Plaintiffs,

-vs-

Case No. 21 CV 5070

NELSON MARTIN d/b/a LIBERTY RIDGE FARM, LIBERTY RIDGE FARM, EASTERN PENNSYLVANIA MENNONITE CHURCH AND RELATED AREAS, and MENNONITE MESSIANIC MISSION OF THE EASTERN PENNSYLVANIA MENNONITE CHURCH,

Defendants.

Video deposition of ROBERT H. MILLER, taken at the instance of the Defendants, pursuant to the Federal Rules of Civil Procedure, pursuant to notice, before Debbie A. Harnen, Registered Professional Reporter and Notary Public in and for the State of Wisconsin, VIA ZOOM VIDEOCONFERENCE, on October 21, 2022, commencing at 10:03 a.m. and concluding at 12:16 p.m.

Reported by: Debbie A. Harnen, RPR



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Page 2
                     A P P E A R A N C E S:
 1
 2
    APPEARED REMOTELY ON BEHALF OF THE PLAINTIFFS:
 3
         ANDREOZZI & FOOTE, P.C., by
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 6
7
    APPEARED REMOTELY ON BEHALF OF THE DEFENDANTS:
 8
         MARGOLIS EDELSTEIN, by
 9
            Ms. Meghan Wynkoop
            Ms. Jocelyn M. Mendez
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13
14
    ALSO PRESENT: Solange Tran
                      Videographer
15
16
17
18
19
20
21
22
2.3
24
25
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18	Text messages between Miller and	4 2
	Kyle Hoover	
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24		
25		



	Page 4
1	TRANSCRIPT OF PROCEEDINGS
2	THE VIDEOGRAPHER: We are now on the
3	record. This begins Media No. 1 in the deposition
4	of Robert Miller in the matter of D.C. and R.M.
5	versus Liberty Ridge Farm, et al., in the United
6	States District Court for the Eastern District of
7	Pennsylvania.
8	Today is Friday, October 21st,
9	2022, and the time is 10:03 a.m. Central Time.
10	This deposition is being held remotely at the
11	request of Margolis Edelstein. The videographer
12	is Solange Tran, and the court reporter is Debbie
13	Harnen, both of Magna Legal Services.
14	Will counsel and all parties
15	present please state their appearances and whom
16	they represent?
17	MS. FRANCHI: My name is Renee Franchi.
18	I'm with the law firm of Andreozzi & Foote, and I
19	represent the plaintiffs in the matter including
20	Mr. Miller, who is here with us today.
21	MS. WYNKOOP: Good morning, everyone.
22	Meghan Wynkoop from Margolis Edelstein, and I
23	represent the defendants in this matter.
24	MS. MENDEZ: Hello. Jocelyn Mendez,
25	Margolis Edelstein, and I represent the defendants



```
Page 5
         in this matter.
1
2
                   THE VIDEOGRAPHER: Will the court
3
         reporter please swear in the witness?
                      (Witness sworn.)
5
                   THE WITNESS: I do.
                   MS. WYNKOOP: All right. So first, I'll
6
7
         just make note -- I know this is my first
         deposition of the week, but we've been here all
9
                We've made a couple agreements on the
10
         record regarding usual stipulations, things of
         that nature, which can be referenced in the first
11
12
         deposition on Tuesday of this week.
13
                         Counsel, are we still all in
         agreement about those issues?
14
15
                   MS. FRANCHI:
                                  Yes.
16
                   MS. WYNKOOP: All right.
17
                ROBERT H. MILLER, called as a witness
          herein, having been first duly sworn on oath,
18
          was examined and testified as follows:
19
                      EXAMINATION
2.0
21
    BY MS. WYNKOOP:
22
         Good morning, Mr. Miller. My name is Meghan
         Wynkoop. I'm with the firm Margolis Edelstein, as
23
24
         you just heard; and I represent Liberty Ridge
25
        Farm, Nelson Martin -- the Mennonite Messianic
```



```
Page 6
         Mission and Eastern Pennsylvania Mennonite Church
1
2
         in the matter that was filed. I appreciate you
3
         being here today.
                         Have you ever been deposed before?
4
5
    Α
         I have not, no.
         All right. So I'm just going to start by going to
6
7
         over a few procedural things, kind of make this
         run smoothly. I don't imagine we'll be here that
9
         long today; I'm pretty quick.
10
                         So -- but if at any point you need
11
         to take a break, please do so. I just ask that
12
         you answer any questions that are pending first.
13
         I imagine I'll also ask for some breaks, so you
14
         know, this isn't a marathon. We'll just get
15
         through this all together.
16
    Α
         Sure.
17
         I'll be asking you a series of questions today.
         It's pretty informal, especially since we're over
18
                There's a court reporter as you can see on
19
         Zoom.
20
         the screen. There's also a videographer.
         court reporter is taking down everything that we
21
22
         all say. So I will just ask that all of your
23
        responses are verbal.
24
    Α
         Okay.
25
        And that means a yes, no answer. The court
```



```
Page 7
         reporter can't really take down an "unh-huh" or a
1
2
         head shake, things like that, because the
3
         transcript won't really be clear.
                         I'll also ask that you wait until I
5
         ask the entire question before answering just so
         that the court reporter has an easier time trying
6
         to take everything down. Does that sound good?
7
         Yes.
9
         Okay. If you don't understand one of my
10
         questions, if it's, you know, phrased poorly, if
11
        you don't hear me, please let me know.
12
         trying to confuse you at all today.
13
                         So if you answer my question, I'm
14
         just going to assume that you understood it.
15
         that make sense?
16
         Yes.
17
         Okay. Is there any reason why you would not be
         able to testify truthfully today?
18
         No.
19
    Α
20
         All right. So aside from speaking with your
         attorney -- I don't want to hear anything about
21
22
         that -- what have you done to prepare for this
23
        deposition today?
        I -- nothing really other than -- yeah, I know --
24
25
        I know what I went through, and that's pretty much
```



```
Page 8
1
         it, so...
         Did you review any documents?
 2
 3
    Α
         No, not really.
         Did you speak with anyone besides your attorney?
 5
         No.
    Α
         Do you know David Cross?
         Yes.
 7
    Α
         Do you know Kyle Hoover?
 9
         Yes.
10
         Have you met Kyle Hoover before in person?
         Once or twice, yes.
11
    Α
12
    Q
        What is your full legal name?
13
         Robert Harvey Miller.
    Α
         And I meant to say this at the beginning.
14
         apologize. I am dealing with a bit of a cold.
15
                                                            So
         if you hear me coughing or anything, I do
16
17
         apologize.
                         Have you gone by any other names?
18
         They sometimes call me Bob for short. Other than
19
    Α
         that, no.
20
21
         When's your birthday?
         03/20/1995.
22
    Α
23
    Q
        And where were you born?
24
        Phoenix, Arizona.
        Were you adopted?
25
```



```
Page 9
1
    Α
         Yes.
         What year were you adopted?
2
3
         I would have to look -- look back on records for
         that. I'm not exactly sure. I think it was
5
         around age five, but I would have to look at
         records.
7
         What were the names of your birth parents, if you
         know?
9
         I have no clue right off. I would have to look at
10
         the records.
        Sure. What about your adoptive parents?
11
12
    Α
        Alan and Virginia Miller.
         Do you consider -- if I were to say your parents,
13
         would you consider that to be Alan and Virginia
14
15
         Miller?
16
        Yes, yep.
17
         Okay. So if at any point moving forward I say mom
         or dad, do you understand that that's who I'm
18
         referencing?
19
20
        Yes, yep.
    Α
         Okay. Did you ever live with any other families
21
22
         other than with your parents?
23
    Α
        Yes.
24
        And who would that be?
        Do we want to start back at the beginning or where
25
    Α
```



```
Page 10
         are we starting that?
1
2
                Let's start at the beginning.
3
         So at the beginning I was with my birth mom; and
         then from there, somewhere along the line, I got
5
         taken out by child services, got put in a foster
         family, which -- and then from there, I was
6
7
         adopted over to Alan and Virginia Miller.
                         From there, I lived there until
9
         about -- somewhere between nine and ten.
10
         kind of around age -- I think it was nine.
         have to look back on records for all this.
11
12
                        But I went over to Arizona for
13
         about a year, which was -- which used to be my
14
         foster parents are now my grandparents.
15
         there for a year, went back, still didn't work out
         and then went to a family in Illinois; and then
16
17
         from there to the boys farm, and then from the
         boys farm back to Illinois, from Illinois; bounced
18
         around several families around there and then to a
19
20
         family in Pennsylvania and then -- yeah.
         turned 18, and I'm now on my own.
21
         All right. So I'm going to try to break that down
22
23
         a little bit. So you had mentioned foster
24
         parents, and did I hear you correctly that you say
25
         those are now your grandparents?
```



```
Page 11
1
    Α
         Yes, yep.
2
         So would that be either Alan or Virginia Miller's
3
         parents?
         It would be Virginia Miller's parents, yep.
4
5
         Okay. And then when you referenced a family in
         Illinois, who were you talking about? What were
6
7
         their names?
         Steven and Bonita Martin.
9
         Do you know why you were sent to live with them?
10
         Because I wasn't -- this is in, like,
11
         understanding it from, you know, my childhood
12
         memory. But basically I wasn't building a good
13
         relationship with my parents, and my parents kind
         of were at their wits' end, so it was to the point
14
15
         where, you know, they couldn't really help me,
16
         so...
17
         Okay. So you went from -- you went from Illinois.
         Did you go back to your parents' house after you
18
         left Steven and Bonita Miller or did you go right
19
         from -- or I'm sorry -- Steven and Bonita Martin
20
21
         or did you go right from the Martins to Liberty
22
         Ridge Farm?
23
         I'm trying to think. So I think I'm -- this is
24
         kind of where -- my memory's not that great.
25
         thinking I went from Steven and Bonita's; and then
```



```
Page 12
         from there, the Church decided that I wasn't --
1
2
         you know, it wasn't working out.
                         So there was a little -- I don't
3
         know how long. It was only like -- if I remember
5
         right, only a few months' time span where I think
         I bounced down to, you know, the Bishops family,
6
7
         James Sensenig, I bounced down to his farm in
         Orchardville; and then from there, they sent me
8
9
         out to Liberty Ridge.
                                 So yeah.
10
         Okay. And then after Liberty Ridge, did you end
11
         up going back to your parents or did you go back
12
         to the Martins?
13
         Steven and Bonita Martin, yep.
14
                And then you said you ended up with a
15
         family in Pennsylvania at some point?
         And I cannot think of his name right off the bat.
16
17
         Older guy.
         That would have been after you left Liberty Ridge
18
         Farm?
19
20
    Α
         Yes.
21
    Q
         Okay.
22
         Hold on.
                  So let's go back a minute.
23
                         So I went to Steven and Bonita's
24
         after -- after Liberty Ridge Farm; and then from
         there, I went to another family in Pennsylvania.
25
```



```
Page 13
         So I was at Steven and Bonita's for, I'm thinking
1
2
         close to a year, somewhere around there.
3
         After Liberty Ridge Farm, did you ever go back to
         live with your parents?
5
    Α
        No, nope.
         Are your parents -- and I'm not being rude by
7
         asking this, I'm sorry.
             That's fine. Go ahead.
         But are your parents still alive?
10
        Yes. One of them is, Virginia Miller is.
        Where do you currently live?
11
12
    Α
        I live in Wautoma, Wisconsin.
        And do you own or rent?
13
        I rent.
14
    Α
15
        Is it an apartment?
        Yes.
16
    Α
17
        Do you currently have a driver's license?
        Yes.
18
    Α
        And what --
19
    Q
        Actually, I have a CDL, so...
20
    Α
         Okay. What state is your -- are your licenses in?
21
    Q
22
        State of Wisconsin.
23
        How long have you lived at your current address?
    Q
        Probably three to five years, somewhere in there.
24
25
        I would have to look at the record. I don't know
```



```
Page 14
         exactly.
1
        And where did you live immediately before then?
2
3
                      (Zoom technical interruption.)
                   MS. WYNKOOP: Okay. We're back.
5
                   THE WITNESS: Sorry about that.
    BY MS. WYNKOOP:
6
         That's okay. Did you hear my question?
8
         No. I might have to connect to my Wi-Fi hotspot
9
         on my phone if this keeps happening. We'll see.
10
         Okay. Do you want to take a second now or you
11
         want to keep moving?
12
    Α
         We can keep moving. It was really clear
13
         otherwise, so...
14
         Okay. My question was, where did you live
15
         immediately preceding this current apartment?
         So right before that, I stayed at Gabriel, Gabe
16
17
         and Sam's house, Boersma, Gabe Boersma, Sam
18
         Boersma.
                         I crashed there for a little bit
19
20
         until I had enough -- I was kind of getting back
21
         on my feet. So then I got an apartment.
22
         How long did you stay with them?
23
         I think nine weeks maybe, something like that.
    Α
24
        And what about --
25
        It actually might be longer than that. I would
```



Page 15 have to look. I'm not sure. 1 2 Where were you living before staying with Gabe and 3 Sam? I lived in an apartment in Neenah, Wisconsin; and 4 5 then from there, I lived in an apartment in Berlin, Wisconsin. And from there, I was in --6 7 oh, no. I was in a camper a little bit until I, you know, found an apartment in Wisconsin. 9 Before that, I was in Ohio. So I 10 mean, there's all kinds of places. I guess I'm trying to figure out why you ended up 11 12 moving from, you know, Illinois to Wisconsin. Oh, no. No, no, no. 13 So I moved from Illinois to that 14 15 family in Pennsylvania; and then from that family in Pennsylvania, as soon as I turned age 18, I 16 17 said -- I was done with that whole religion; and from there, I found an apartment in Ohio and moved 18 to Ohio, so... 19 Why did you pick Ohio? 20 Because I had a sister living there. 21 Α 22 And then from Ohio, why did you pick Wisconsin? 23 Α Job opportunity up here. What is that job opportunity? 24 It was a job opportunity. I was doing roofing at 25



```
Page 16
         the time. Obviously, I don't do that anymore, but
1
2
         yeah.
3
         Well, what do you do now?
        Crane operator.
4
5
         What is the company that you presently work for?
         Gabe's Top It or Drop Tree Service out of Wild
6
7
         Rose, Wisconsin.
         And other than operating a crane, what are your
         other kind of job duties there?
9
10
         I cut trees. I was site superintendent.
         not -- I'd have to kind of see -- I still am kind
11
12
        of senior leader, but kind of more opted out of
13
         that role for the crane -- operating crane role,
         but I still have some site, quite a bit of site
14
15
         actually.
        How long have you been at Gabe's?
16
17
         Going on five years. I would have to look when I
         exactly started, but it's going on five years.
18
         Do you have to maintain -- and I know you had said
19
    Q
20
         a CDL. But do you have to maintain any sort of
         occupational license for your job?
21
22
                So I have CCL certs for operating the
23
         crane; and then I also have the CDL and then,
24
         yeah. I'm working on getting my arborist
25
        certification too, so...
```



```
Page 17
         Did you say arborist certification?
1
    0
2
         Yes, yep.
    Α
3
         What does that entail?
         It's a -- basically it's a certification that
5
         shows that you know about trees and what you're
         doing with trees more or less.
7
         Do you have to learn any -- how to use any
         particular tools to be able to get that
9
         certification?
10
         Yes, yes. You have to -- pretty much you have to
         know the tricks and trades of the -- or the tricks
11
12
         of the job pretty much.
13
                         As far as learning about this job,
         there's quite a bit to learn. I started off as
14
         groundsman and worked my way up to climber; and
15
         from there, worked my way up into a crane
16
17
         operator, so there was definitely a lot of
         on-the-job training, et cetera.
18
         What type of tools do you use in that sort of
19
    Q
20
         position, I mean, prior to being a crane operator?
         Chain saws, wood chippers, skid steers,
21
22
         excavators. That's the majority of it.
23
         All right. Are you currently married?
24
    Α
        Nope.
25
        Have you ever been married?
```



```
Page 18
1
    Α
         Nope.
2
         Do you have any children?
 3
    Α
         Nope.
         And I am not being rude by asking this, but have
5
         you ever been charged with a crime?
6
         No -- well, other than traffic citations, stuff
    Α
         like that.
8
         Sure. Have you ever -- other than the reason
9
         we're here today, have you ever been a part of a
10
         lawsuit?
11
    Α
        No.
12
    Q
         All right. I'm going to -- we're going to test
13
         out the screen sharing and see how good it does.
14
                    MS. WYNKOOP: Can everyone see that?
15
                    MS. FRANCHI: Yes.
16
                    THE WITNESS: Yes.
17
                   MS. WYNKOOP: Perfect.
18
    BY MS. WYNKOOP:
         Mr. Miller, I just put up a document on our
19
20
         screen. Do you recognize what I just put up?
21
    Α
         Yes, yep.
22
         And have you seen this first amended complaint
         before?
23
24
         I'm sure I've seen it in passing, yes.
25
    Q
         Okay.
```



```
Page 19
         Yep. Yes, I have.
1
    Α
2
         Perfect. I mostly just wanted to test the screen
3
         sharing. I didn't have anything to add about
         that, but all right.
5
    Α
         Sure.
         What is your educational history?
7
         Got a GED with a little bit of college --
         actually, I think I have -- I'm not -- don't quote
9
         me for sure on this, somewhere around 17 college
10
         credits, I think, something like that, but yeah.
        What college did you get those credits from?
11
12
    Α
         Eastern Gateway Community College.
         Where is that located?
13
    Q
         Steubenville, Ohio.
14
    Α
15
         When did you get your GED?
         That would have been, I think -- and I would have
16
17
         to look again at the dates, but I think it was
         around year 2015, something like that.
18
         Did you ever serve in the military?
19
    Q
20
    Α
         No.
                     So those are all my background
21
         All right.
22
         questions. I tried to get through them quickly.
23
         So I'm going to kind of switch gears and talk
24
         about the reason we're here today.
25
                         So first, we had talked a little
```



```
Page 20
         bit about your history of moving from your
1
         parents' house to Steven and Bonita's, and then
2
3
         you referenced that at some point you moved to a
         farm.
        Uhm-hm.
5
    Α
         By that, we're referencing Liberty Ridge Farm,
7
         which is --
         Yes.
9
         -- a defendant in this lawsuit.
10
                         Have you ever been a resident of
         any other what I will call a troubled teen
11
12
         facility?
13
         No.
    Α
14
         Were you ever a resident at Teen Boys Ranch?
         No.
15
    Α
         Okay. Do you know who placed you at Liberty Ridge
16
17
         Farm?
        According to the documents that were sent over to
18
         me, it was -- the quardians that are on that
19
         document was Steven -- I think Steven Martin.
20
21
                         I -- what I remember, though, I'm
22
         pretty sure it was the Bishops that were -- kind
23
        of had more or less say in the whole situation.
        Prior to becoming a resident of Liberty Ridge
24
        Farm, did you know anyone by the name of Nelson
25
```



```
Page 21
         Martin?
1
2
    Α
         No.
3
         Did you know anyone by the name of Ethan Weaver?
         Not that I can recall, no.
5
         Do you -- what were you told as to why you were
6
         being placed at Liberty Ridge Farm?
7
         It was to -- I forget exactly what all they were
         saying, but it was to help me, number one, grow
9
         with my spiritual walk; number two -- that was the
10
         main reason, but then two was to maybe build
         better relationships, something like that.
11
12
         not sure exactly, but yeah.
13
                         That's what I can recall from the
14
         meetings because I wasn't bonding with families or
15
         something, yeah, something to that extent.
         At that time -- and by "that time," I mean
16
17
         immediately prior to you residing at Liberty Ridge
         Farm, what was your relationship like with your
18
         parents?
19
         Not great.
20
    Α
         Were you getting in a lot of trouble?
21
22
              They -- well, yes. They considered me
23
         rebellious. I guess I tended to -- in their eyes
24
        had an attachment disorder, like, I couldn't
25
        attach to them which, yeah, at the time I didn't
```



Page 22 know anything about or yeah, so, yep. 1 2 You had referenced some meetings prior to you 3 being placed at Liberty Ridge Farm. Did I hear that correctly? 5 Α Yes, yep. What can you tell me about those meetings? 7 It's basically where the Bishops/preachers brought me into a room, were talking -- because Steven was 9 talking to them as far as how I, you know, wasn't 10 conforming or fitting in or being, I guess, 11 rebellious; and they had a meeting with them. 12 I don't know what all was said on 13 their end, but I do know they had -- you know, 14 they said I was rebellious and didn't really fit 15 in with the family. That's basically what I can remember. And then also my spiritual walk wasn't 16 17 great in their eyes, which yeah, whatever. You referenced Bishops. Do you happen to know any 18 of their names? 19 James Sensenig, and I think that was the only one 20 till I got to Liberty Ridge; and then I don't know 21 what all -- there was a bunch of people I didn't 22 23 really recognize right at the moment. But there 24 was kind of a panel that I sat down with that 25 night, and we went over paperwork as far as



```
Page 23
         getting into Liberty Ridge, so yeah.
1
2
         Do you know how your parents knew Steven and
3
         Bonita?
         I have no clue.
5
                         I think the preachers -- and I
6
         could be -- I could be wrong on this.
                                                 That was
7
         all pretty -- pretty top secret stuff.
         pretty sure somehow the preachers out in New
9
         Mexico at the time knew of James Sensenig
10
         somewhere because they're kind of like sister
         churches. I forget what the other church group
11
12
         is.
13
                         But the Eastern Pennsylvania
         Mennonite Church and the -- I think it's Southwest
14
         Fellowship, they're both kind of sistering in
15
         that, you know, as far as their -- they're kind of
16
17
         both conservative. They kind of cross paths
         sometimes.
18
                         I think somewhere one of the
19
20
         preachers knew about their pastor, and that's kind
21
         of where they, you know -- that's kind of -- I'm
22
         thinking that's how it all happened.
23
         exactly sure. I was pretty young at the time,
24
         so...
25
        How old were you at the time?
```



Page 24 I'm thinking between 13 and 14, somewhere around 1 Α 2 there. 3 And immediately prior to residing at Liberty Ridge Farm, do you remember how long you were living with Steven and Bonita? 5 I think it was two or three years, something like 6 7 I could be wrong on that. It's been a while. 9 Are you still in contact with them? 10 Α No. Did you get into a lot of trouble at Steven and 11 12 Bonita's? 13 One -- okay. Back on the previous question, they did email me once. They were trying to look me up 14 15 in Wisconsin, and that was last year, I think. They were up visiting his brother 16 17 up here, and they were, you know -- and then every now and then, you know, emails, that's in the 18 spacing of about a year, but other than that, no. 19 I don't talk to them. 20 I appreciate you clarifying. 21 22 So I think I had asked, were you at 23 that time, meaning immediately prior to being placed at Liberty Ridge Farm, were you getting 24 into a lot of trouble at Steven and Bonita's 25



```
Page 25
         house?
1
2
         Yeah. I can't lay my finger on exactly anything
3
         right off the bat. I was just kind of rebellious
         in nature, if I remember right, just kind of
5
         bucked everything they said.
                         I knew how to -- and this was my
6
7
         form of, you know, figuring out people or
         something like that, but I knew how to read
9
         people; and I knew how to push buttons to figure
10
         out -- and obviously there's a whole, you know --
         there's a term for that too.
11
12
                         But in my mind, I didn't know what
13
         was happening, and that was just my form of
         security or figuring out if these people are
14
15
         trustworthy, who they are, you know.
         I know you had mentioned that you left the church
16
17
         at 18. But prior to that, what was kind of your
         religious background?
18
         Prior to 18?
19
    Α
         Yeah.
20
    Q
         I don't know. You'd probably call it a Christian,
21
22
         whatever, you know, you conform to church
23
         standards. That's what I would call it maybe.
         their eyes, they thought I was Christian because,
24
         you know, I was doing everything perfect, but I
25
```



```
Page 26
         wouldn't necessarily say I was a Christian, but...
1
2
         Were you baptized?
3
    Α
         Yes.
         How old were you when you were baptized?
4
5
    Α
         Shoot. I was young.
6
                         I think ten. I'm not exactly sure.
7
         I'd have to -- I'd have to actually talk to --
         that was actually at the church in New Mexico, if
9
         I remember right, that I was baptized at.
10
         So that was when you were living with your
11
        parents?
12
    Α
        Yes, yep.
13
         Okay. How old were you when you were initially
         first residing at Liberty Ridge Farm?
14
15
         I'm not sure exactly. I would have to -- yeah.
         don't know for sure exactly on that. I think it's
16
17
         between 16 and 17. I think it would have been 16.
                        Actually maybe -- maybe even
18
         earlier than that. Somewhere around there, 15,
19
20
         16, I think. I'm not sure exactly.
         Okay.
21
    Q
22
         I would have to -- I mean, if they have the --
23
         they might have it dated on those documents. It
24
         would be on there.
25
        Yeah. I hear you, and I have documents. I'm not
```



```
Page 27
         going to hold you to it.
1
         Okay. All right.
2
3
         I didn't know if you remembered.
4
    Α
         Okay.
5
         All right. So we were talking about meetings, and
6
         you had referenced paperwork prior to being placed
7
         at Liberty Ridge Farm. Do you remember what any
         of that paperwork was like?
9
         I just -- Renee actually sent over that paperwork,
10
         and I glanced at it. I didn't really have a
         chance to read through it too much.
11
12
                         That was more or less what it was.
13
         I didn't recall exactly until she sent it over,
14
         but yeah. That's kind of more or less what it
15
         was.
         I'm going to share my screen again. Can we see
16
17
         that?
18
    Α
        Yep.
         All right. I'm going to apologize in advance that
19
         the quality on this is just absolutely terrible,
20
21
         but it's what I have so we're working with it.
22
                         Do you recognize the document that
23
         I placed on the screen, which is being
         Bates-stamped as LRF98?
24
25
         Yes. I had looked over this document. I'm just
```



```
Page 28
         trying to -- all right.
1
                                  Hm.
                                        Okay.
2
         Okay. I'm going to scroll down maybe to get to a
3
         point where I can read it.
                         Do you have any independent
         recollection of filling out an application prior
5
         to residing at Liberty Ridge Farm?
7
         Not that I am aware of, no.
         Do you recall any sort of application process that
9
         took place during that time?
10
         The only thing I remember as far as doing
11
         paperwork would have been at the Liberty Ridge
12
         Farm when I showed up there that night -- that
         night, yeah.
13
         I'm going to keep scrolling down to -- right now
14
15
         I'm at LRF101. Is that your handwriting next to
16
         name where it says Robert Miller?
17
         Yes.
        Do you remember --
18
         That looks like my handwriting, yes.
19
    Α
         Sorry. Do you remember filling out this
20
    Q
         paperwork?
21
22
         I remember doing paperwork at the farm.
                                                    I don't
23
         remember if it was -- yeah. I don't remember
         exactly filling out all this to this detail, but
24
        I'm sure -- I'm sure I did.
25
```



```
Page 29
         Okay. No. 9 it says, What happened when you did
1
2
         wrong as a child? Did you write this, "get
3
         whipped"?
         Yeah, yeah, probably. Yes.
5
         Sorry. Let me know if I'm scrolling too fast.
         The quality is just -- it's really difficult to
6
7
         read on a screen. So I don't want to try to read.
                         Is this your signature down here
9
         where it says Robert H. Miller?
10
    Α
        Yes, yep.
        And the date next to it, do you remember writing
11
        March 24th?
12
         I mean, if it's there, yeah, I probably wrote the
13
    Α
                I don't remember writing it.
14
         date.
         Okay. Do you happen to know who else filled out
15
         application paperwork?
16
17
         No. I wouldn't know, no.
         Okay. When you were living with Steven and
18
         Bonita, do you know whether they were your legal
19
         quardian at the time?
20
         As far as legal as far as court documents or what?
21
    Α
22
    Q
         Yeah.
23
         No. I -- at the time, I did not know anything
24
         really.
25
         Okay.
```



		Page 30
1	А	So
2	Q	Do you remember having any conversations with your
3		parents about going to Liberty Ridge Farm?
4	А	I'm sure I maybe had a conversation or two, but
5		that's not that I can recall off the top of my
6		head.
7	Q	How long were you at Liberty Ridge Farm?
8	А	For about a year.
9	Q	Do you know if your parents had to pay for you to
10		stay at the farm?
11	А	Yes. If I can recall, yes.
12	Q	Do you recall about how much?
13	А	I don't know. I heard the rumor it was around
14		2300 bucks, somewhere around there, but
15	Q	Did you ever have a job before residing at Liberty
16		Ridge Farm?
17	А	Yes. I worked for Steven and Bonita Martin.
18	Q	What did you do for them?
19	А	I worked I helped them do roofing there, so
20		yes.
21	Q	What kind of roofing? What did that entail?
22	А	Residential roofs. For the most part, residential
23		roofs, but going up, stripping off the shingles,
24		putting on a new roof, yeah.
25	Q	Were you paid for any of that?



Page 31 Yes, I think so. I think my parents got most of 1 Α 2 the money for that, though. 3 Do you recall whether you were given a sort of --I think I was given a percentage, but I don't 5 recall right off the bat exactly what I was given. Do you know whether it was like a paycheck or more 6 7 of allowance? I think it was a paycheck, yeah. 9 When you first moved to Liberty Ridge Farm, do you 10 recall how many other residents were there? Just one other. 11 Was that David Cross? 12 13 Yes, yep. Α 14 How long was it just you two as the residents? It would have been -- I'm pretty sure it would 15 have been the majority of the time I was there. 16 17 How many mentors were there? Two. 18 Α And do you know their names? 19 20 They kind of switched out. There's an Ebersol 21 there once, he was often David's mentor; and then 22 mine was Linden Graham for the most part. 23 then sometimes they rotated out, and then it would 24 have been Daryn Nolt and Austin -- and I forget 25 his last name, Austin somebody, but yeah.



		Page 32
1		That's the majority of the ones I
2		remember. There was another fill-in one. I can't
3		remember his name. Yeah, that's basically what I
4		remember.
5	Q	Was there a house parent when you were there?
6	А	Yes, yep.
7	Q	And who was that?
8	А	Ethan Weaver the majority of the time; and then if
9		I remember right at the end sometimes they
10		rotated out, sometimes they had fill-ins. But at
11		the end, they switched out and I can't think of
12		the other guy's name, but yeah.
13	Q	Okay. What was your daily schedule, so to say, at
14		the farm?
15	А	So we would get up. We had a little bit of time
16		in the morning to get dressed. Then you get down.
17		I'm pretty sure we went out and did chores. It's
18		a quite foggy memory on that.
19		But I'm pretty sure we went out,
20		did chores, came back, had bible worship or
21		something like that; and then we would have
22		breakfast, figure out what we were doing for the
23		day, whether it was milling logs the majority
24		of it was milling logs, blast gates, and then,
25		yeah, doing those wood bundles of wood and
Ī		



```
Page 33
1
         then -- yeah.
2
         As someone with zero construction background, what
3
         do you mean by milling logs?
         So we would go out, fell the trees and then drag
5
         them out of the woods, split 'em up, and then save
         the logs to get milled up, so...
6
         All right. You talked about chores. What other
7
         kind of chores did you do?
9
         So we had -- okay, what type of chores?
10
         were chickens that we were raising for, I don't
         know, some market -- I'm pretty sure it was a live
11
12
         market out of New York City, something like that.
13
                         So yeah, that's the majority of it.
14
         Then there was, you know, some hobby animals up
15
               If I remember right, there was some hogs
         that we took care of at one point.
16
                                              There might
17
         have been one or two other animals, but that's
         pretty much all I can recall.
18
         Did your parents ever visit you at the farm?
19
    Q
20
         Not that I can recall, no.
    Δ
         Did Steven and Bonita?
21
    Q
22
         They came to pick me up if I remember, yeah.
23
         Did you ever write letters when you lived there?
    Q
24
         Yes. Actually, hang on one second. Let me try to
25
         get back on the screen. There we go.
```



```
Page 34
                        All right. Yes, I think they did,
1
2
         yes.
3
         You said they. Who is they?
         As far as -- okay. Rephrase that question again.
4
5
         Sorry. I was asking if you ever wrote letters.
         Sorry. Yes, I did write letters, yes.
6
7
         Who did you write letters to?
         I'm pretty sure I wrote some to my family, Jake
9
         Derstein, I wrote some to them. There would have
10
         been some other people. I would have to -- I
         don't know exactly right off the bat.
11
12
                         I definitely know I did write
         letters, and they were definitely mon- -- they had
13
         to be proofread before I sent them out.
14
15
         Do you recall your family ever writing letters to
16
         you?
17
         I'm pretty sure they did, yeah. I'm pretty sure I
         received some mail there, but yeah.
18
                   MS. WYNKOOP: All right. Sorry. Can we
19
20
         just go off for two seconds?
21
                   THE VIDEOGRAPHER:
                                      The time is
22
         10:45 a.m. We're going off the record.
23
                      (Discussion off the record.)
24
                   MS. FRANCHI: Can we take, like, three
25
         minutes?
```



```
Page 35
                      (Recess taken from 10:45 a.m.
1
2
                      until 10:55 a.m.)
3
                   THE VIDEOGRAPHER: The time is
         10:55 a.m. We're back on the record.
    BY MS. WYNKOOP:
5
         All right. So before the break, we were talking
6
7
         about some of, like, the day-to-day stuff when you
         were a resident at Liberty Ridge. We were just
9
         talking about letters. But before that, we were
10
         talking about some of the chores.
11
                        And you were talking about things
12
         like milling logs and tending to chickens and
13
         things of that nature. When it came to milling
         logs, what types of tools would you have to use?
14
15
         We used a chain saw and, then there was -- okay,
         Linden Graham, the mentor there, he actually
16
17
         milled the logs. We just handled them and did
         stuff like that. He actually ran the machinery as
18
         far as the saw mill, the portable saw mill.
19
         ran that.
20
         What other types of chores would you complete?
21
22
         As far as, okay, maybe on Saturdays, we cleaned,
23
         yeah.
24
         Okay.
25
        That was more or less the gist of it.
```



```
Page 36
                         Can I also -- on that other
1
2
         question as far as that paperwork, I was thinking
3
         maybe I was a little bit younger than the age that
         was put on there, but I could be wrong on that.
         I'd like to do some research on that if I can.
5
         Sure, yeah.
6
7
         Okay. Just fyi.
         Appreciate it.
9
                    MS. FRANCHI: Yeah. And that's
10
         something we can always -- you know, I saw there
         was a couple of different -- just kind of going on
11
12
         a tangent, there was a few different ages on the
         paper. One said 17, one said 16.
13
14
                         So we can try to, you know, clarify
15
         to the extent that if it's something that you're
         looking for specifically, but if not, then we
16
17
         can --
    BY THE WITNESS:
         Because if I remember, in Ohio -- or in
19
20
         Pennsylvania, as soon as I left, I turned 18 and
21
         then -- so it wouldn't make sense as far as the
22
         timeline for that paperwork there if you know what
23
         I mean.
    BY MS. WYNKOOP:
24
25
         Uhm-hm. Okay. I appreciate it.
```



```
Page 37
                         Do you remember any sort of, you
1
2
         know, point system at the farm for good behavior?
3
         Can you explain what you're asking about?
         Sure. So I'm thinking of, you know, could you all
5
         earn sort of points which could later be redeemed
         to get sort of prizes or different kinds of snacks
6
7
         and things like that?
         I don't recall anything.
9
         Okay. Was there an actual farm on the property?
10
    Α
         As far as?
11
        Like crops.
12
    Α
        Crops were grown on the property, yes.
13
         Do you remember what those crops were?
14
    Α
         It was corn and beans if I remember right.
         Was anything else grown on the property?
15
         We had a small garden there that we grew some of
16
17
         the food at, yes.
         What types of food would you grow?
18
         Tomatoes, sweet corn, habanero plant. I had one
19
    Α
20
         habanero plant in there. And then there was other
         stuff, but yeah, I can't recall.
                                            I think
21
22
         cucumbers, yeah, stuff like that.
23
         And did they -- did the house parents -- or I'm
         sorry -- the mentors, like, teach you how to tend
24
        to those crops?
25
```



```
Page 38
         Yes and no. It was more the housemate that kind
1
    Α
2
         of said that, hey, we need to do this.
                                                   They went
3
         in there and pulled weeds sometimes or stuff like
         that. Yeah, I don't know.
5
                         As far as teaching, I mean, it was
         kind of -- I guess the Mennonite culture, you have
6
7
         that -- or at least I grew up anyways gardening as
                 So I kind of knew what was going on more
9
         or less.
10
         And you said that you had a habanero plant?
11
    Α
        Yes, yep.
12
         So was that the plant that you were responsible
13
         for growing and keeping?
14
    Α
         Uhm-hm, yes, yep.
15
         Did you ever get to play, like, recreational games
         while you were at the farm?
16
17
         On Sundays, yeah, we would have had recreational
         time where we would've -- I think we would've done
18
         something like that, yeah. I don't recall
19
20
         anything right off the bat, but yeah, we would've,
         yeah, done something.
21
22
        Did you get to play basketball?
23
         No. I don't recall that, no.
24
                         They might have had it, but I don't
25
        recall us really using it.
```



		Page 39
1	Q	Other than the chain saws, what types of tools
2		were you taught to use while you were at the farm?
3	А	Skid steer. I learned how to run a skid steer.
4		There was mini tractors we used to clean out the
5		chicken barn with. Saws, any basic equipment to
6		either paint the fence rails or anything like
7		that, you know.
8	Q	Did anyone ever tell you that you'd be paid for
9		doing chores?
10	А	No.
11	Q	So we had seen in your paperwork it says that when
12		you got in trouble, you got whipped. What did you
13		really mean by that?
14	А	Corporal punishment, yeah.
15	Q	What type of things would you be whipped with?
16	А	As far as as a kid or what?
17	Q	As a kid.
18	А	Okay. Kind of basically what was around normally
19		was some type of wooden my mom always used a
20		wooden stick, but then there was times where my
21		dad used PVC pipe, a concrete stake. That's
22		mostly what I remember was the two big ones that
23		kind of hurt.
24	Q	Were you ever whipped while you were at Liberty
25		Ridge Farm?



Page 40 1 Α No, nope. 2 Did you ever meet anyone from the Mennonite 3 Messianic Mission if you can remember? So I met people that I knew that were on the 4 5 farm's panel, but I didn't know exactly what -- I didn't hear all the proper terms as far as what 6 7 all -- who's everybody's title was exactly. I definitely met Nelson Martin, and 9 I think it was Joe Martin, taller white-haired 10 guy; and then there was a pastor that came in and did some stuff, Ethan Weaver, the mentors. 11 12 I'm trying to think. It was pretty 13 fuzzy who all was there that night whenever I 14 first showed up. That's kind of a blur, but yeah. 15 That was kind of the important meeting and yeah, I kind of don't remember that that great, yeah. 16 17 You had mentioned that in the morning you had kind of a class of some sort. Do you remember who was 18 responsible for teaching? 19 20 As far as class, we had a devotion in the morning 21 if that's what you're talking about. 22 Did you have a bible study? 23 Okay. So we had family worship in the morning 24 after we got up from chores. That was led by the 25 house parent. The class was later in the day.



```
Page 41
                         I'm not sure which one you're
1
2
         talking about, if you're talking about family
         worship or the class. The bible study class was
3
         later. It was after lunch for about an hour,
5
         yeah, something like that.
         And who taught that?
6
7
         That would have been -- can't think of his name
8
         right off the bat, but it's on the paperwork
9
         there. Super chill guy, yeah. I can't think of
10
         his name. I'd have to look.
11
         So you brought up Nelson Martin. How many times
12
         do you think that you've met Nelson Martin?
         It would have been a total of two or three times,
13
14
         wasn't much. He was more of a behind-the-scenes
15
         guy.
         So Nelson Martin didn't have much to do with your
16
17
         day-to-day life at Liberty Ridge Farm?
         No, no.
18
    Α
         I know we had talked a little bit about Kyle
19
         Hoover. I had asked you if you knew him.
20
21
    Α
         Okay.
22
         Have you spoken to Kyle Hoover about this
    0
23
         lawsuit?
24
         We may have talked in text, but I don't really
25
         yeah, we didn't talk in person.
```



```
Page 42
                I'm going to make a note on the record if
1
2
         we could obtain those text messages if possible.
3
    Α
         Okay.
         Okay. I digress.
5
                         Can you tell me about some
6
         consequences that you experienced on the farm for
7
         poor behavior?
8
         Okay. Yeah.
    Α
9
                         And then could I go back to that
10
         note? I'm not sure if I did text him or not, so
11
         I'm going to have to go back and look in my
12
         messages.
13
         That's fine. If they exist, great. If not, no
    Q
14
         big deal.
15
         Okay, all right.
                   MS. FRANCHI: And just for the record,
16
17
         when we're done with all the depositions, Meghan,
         we can -- I have a few items also that I was
18
         hoping to look into. So if you want, just
19
20
         whenever we're done with everything, let me know;
21
         and I don't need it in a formal request.
                                                    I don't
22
         know if you do either. We can just exchange an
23
         email of all the items we're looking for.
                   MS. WYNKOOP: That's fine. That was
24
25
         mostly so I didn't forget.
```



```
Page 43
    BY MS. WYNKOOP:
2
         Okay.
3
                So you were looking for the -- what type of
    Α
         Okay.
         trouble I got in at the Liberty Ridge Farm?
4
5
    Q
         Yeah.
                I wasn't there that long, and I started
6
7
         pressuring -- once again, pushing -- pushing
         buttons seeing where -- you know, seeing how
9
         people reacted.
10
                         But I brought up the whole thing
         about the sports car, and they kind of took it out
11
12
         as being rebellious because obviously I did not
         have those convictions that they had, which --
13
         yeah, it was to a whole different story.
14
                         But they took it I was being
15
         rebellious, and I just kept pushing on it, and
16
17
         they finally decided to make me dig postholes.
         I started digging, I got really mad.
18
                         And me just, you know, being that,
19
         I said I hope -- I said if I -- either if I -- I
20
         might have said, if I got out of this place, I'll
21
22
         come back and bomb it or -- I was pretty mad at
23
         the time, but yeah. It was a pretty violent
         statement I said. And yeah, they got really mad
24
25
         at that and made me dig stump holes most of the
```



```
Page 44
         night.
1
2
                         And then I think in the morning
3
         hours, I was writing -- I had to write, like, a
         hundred-some sentences. I was furious at that
5
         point, but yeah.
         When you say "they," who directed you to do that?
6
7
         So Ethan Weaver was the main guy that -- he was
         the instigator. He was the one that decided what
9
         type of punishment I was going to get.
10
                         And then I had mentors there that
         were, you know, watching over me, making sure I,
11
12
         you know, was doing that. And then during the
13
         punishment when I said that other thing, he was
         the one that got really mad and said that I was
14
         going to be digging more stump holes -- or sorry,
15
         not stump holes -- postholes. And yeah so -- he
16
17
         was the main -- he was the main guy.
         Were you on any medication when you were at the
18
         farm?
19
20
         Nope -- no, no. Sorry.
         Have you spoken to your parents about this
21
22
         lawsuit?
23
         I'm kind of trying to avoid that.
24
                         I think I may have talked to
25
         them -- talked to my mom a little bit -- actually,
```



```
Page 45
              I don't even know if I did, no. Because I
1
2
         talked to my brother Richard about it, and I think
3
         she heard about it through him.
                         So no, I don't think I really
5
         recall bringing it up. It's kind of a touchy
         subject because she's still within the whole
6
7
         organization. So yeah, I don't -- I don't really
         want to open that can of worms.
9
         Understood.
10
                         Do you remember having to fill out
         daily moral inventories?
11
12
    Α
        Yes.
13
         How often -- I know it sounds self-explanatory,
         but was that every single day?
14
15
    Α
         Yes.
         And what type of things would you put in those
16
17
         inventories?
        So I just glanced over one Renee sent over because
18
         I was curious, but I was looking at it -- or what
19
         I did, even, just really fast; and it looks like I
20
         was really sloppy when I filled them out, like I
21
22
         hated them and didn't really care about them.
23
                         But I filled out basically, you
24
         know, what the highlights of the day were,
25
         basically what stood out to me, what I could have
```



```
Page 46
         worked on to -- you know, worked on to make my day
1
         go better, whatever, bad attitudes or whatever.
2
3
         don't know. But I just kind of flew through them.
         I didn't really fill them out to -- I just filled
5
         them out to appease them actually, so yeah.
         You had mentioned that one of your consequences
6
7
         was writing sentences. Do you remember what those
         sentences were?
9
         No, nope.
10
         Do you remember writing any sort of essay?
         Actually, that might have been one time. I don't
11
12
         recall that. That -- that maybe rings a bell in
13
         my memory maybe a bit, but nothing, yeah.
         I'm just going to pull it up mostly to confirm
14
15
         some things here are your handwriting.
         going to sit here and force you to read.
16
17
         Oh, that's fine. I don't care.
         Okay. I just put up on the screen what starts
18
         at -- oh, I guess it starts at LRF273. Do you
19
20
         recognize that handwriting?
         Yeah. Give me a second. I can probably remember
21
22
         it.
23
                        Can you go down farther?
24
    Q
        Yep.
25
        Can you scroll down?
```



```
Page 47
         Let me know when to stop or if you want the next
1
    Q
2
         page.
 3
         Go down to the next page.
    Q
         Sure.
5
    Α
         And right there. Was there multiple pages to
         this?
6
         Yeah. I can keep going if you want.
8
    Α
         Yeah, keep going, and hold right there.
9
         I'm sorry. I wish there was a better way to do
    0
10
         this.
         Keep scrolling down.
11
12
    Q
         Yeah.
13
         Hold right there.
                         I don't know if this was
14
15
         actually -- I don't know if this one was a
         punishment or if this was just something I was
16
17
         just writing, yeah. But I definitely wrote it,
18
         yes.
         Okay. That's pretty much all I needed to know
19
    Q
         from that.
20
    Α
         Okay.
21
22
    0
         Great.
23
                         So you had mentioned that you
24
         stayed at the farm like less than a year. Does
25
         that sound right?
```



Page 48 I think I was actually there a full year, but I'm 1 Α 2 not totally sure. 3 Do you remember any of the conversations or who determined that you had essentially graduated from the farm? 5 Ethan Weaver would have been the one that talked 6 7 to other people about it. He would have talked to other 9 people about it, but it -- he would have been the 10 main guy that would have decided or felt that, you know, it would -- yeah, that I was good. 11 12 Q Do you remember having any conversations about 13 whether you were ready to be back out in society? 14 Yeah. We had some, yes, yep. Do you remember any specifics about those 15 conversations? 16 17 No, nope. No. Do you remember who those conversations were 18 with? 19 20 It would have been Ethan Weaver, some of the 21 mentors. It was more or less in passing. I don't 22 remember anything -- you know, any formal 23 sit-downs, this-is-what-it's-going-to-be-like, you 24 know, conversations, but yeah. 25 And then you said before -- and correct me if I'm



```
Page 49
         wrong -- that Steven and Bonita came and picked
1
2
         you up?
3
        Yes, yep.
        And where did you go from there?
4
5
        Back out to Illinois.
    Α
         After leaving Liberty Ridge Farm, did you keep in
7
         touch with anyone that either resided or worked
         there?
9
        In passing, I would have. Not really, you know --
10
         not really, you know, consistent communication.
         It was maybe in passing.
11
12
    Q
        Have you seen Ethan Weaver since then?
         Yes. I met him a few times. I was visiting the
13
14
         church or whatever, you know, in passing again.
15
        Do you remember how many times?
         It would have been two or three times if I
16
17
         remember right, yeah.
        Did Ethan Weaver ever come out to visit you in
18
        Illinois?
19
        Not that I can recall.
20
    Α
         After you left Liberty Ridge Farm, how long did
21
22
        you stay at Steven and Bonita's?
23
         I was thinking several months. I'm not exactly
24
         sure.
25
                         Those dates kind of threw me off on
```



```
Page 50
         that paperwork that I was looking at.
                                                 I know for
1
2
         a fact I was out there for a little bit before I
3
         went to Pennsylvania.
         And you said you couldn't really remember the
5
         names of the people you lived with in
         Pennsylvania?
6
7
         No, I can't remember it, no. I would have to
         look.
9
                         I'm pretty sure I had a joint bank
10
         account or something like that set up with them,
         but I'm not sure.
11
12
    Q
         When you went back to Steven and Bonita's after
13
         leaving Liberty Ridge, did you get a job?
         Yes. I worked at the feed mill.
14
    Α
15
         And what were you doing at the feed mill?
         I mixed feed. So a feed mixer/cleaned up around
16
17
         there, you know, stuff like that.
         When you moved to Pennsylvania, did you have a job
18
         when you were living with that family?
19
         Yes. I worked at Martin Farm Trucks, I think.
20
                                                           Ι
         worked there, and -- yeah. So worked there a
21
         little bit and then, yeah, turned 18 and left.
22
23
         And when you turned 18, I know you left, and you
24
         said you went to Ohio because you had a sister
25
        there?
```



```
Page 51
1
    Α
         Yes, yep.
2
         And what type of work, if any, were you doing in
3
         Ohio?
        I started off doing concrete work for Ohio Valley
5
         Concrete; and then from there, I started doing
         construction. I think it was Hearst Builders,
6
7
         something like that. Actually, no. That's not
         what it was -- I forget what the name was, but it
9
         was Mike Hearst out there, so...
10
         And then from there, you ended up going and moving
        to Wisconsin because of the tree company?
11
12
    Α
        No. I started working for a roofing company in
         Wisconsin, so...
13
         Okay. So obviously --
14
         Which --
15
    Α
         Sorry. Go ahead.
16
17
         Side note, that guy that I used to work for is now
         out of business, FYI.
18
         Fair enough.
19
    Q
                         So obviously we're here today
20
21
         because a lawsuit was filed in the Eastern
22
         District of Pennsylvania. When did you first
         discuss a lawsuit with David Cross? And if it was
23
         in the presence of an attorney, I do not want to
24
        hear about it.
25
```



		Page 52
1	А	I think I saw it on the news either saw it on
2		the news or something; and that's when I started
3		talking to him about it. Well, actually, hold on.
4		Before that, he had mentioned
5		there was several times before that he had
6		actually mentioned he was going to talk to a
7		lawyer; didn't really go anywhere. And then
8		somewhere I saw it on the news here recently and
9		got ahold of Renee.
10	Q	How often do you talk to David Cross?
11	А	Not often. It's kind of more in passing. He'll
12		hit me up every now and then, we'll talk, but
13		yeah, not consistent.
14	Q	Did you stay in contact when you left Liberty
15		Ridge Farm or did it come after?
16	А	It would have came after. He was under pretty
17		strict communication there or communication
18		they monitored everything really closely.
19	Q	So I won't pull up discovery because the screen
20		sharing is a nightmare, but we had sent over some
21		written questions for discovery purposes, and one
22		of those questions was regarding whether you had
23		given any statements about this case.
24		Do you remember answering a
25		question to that extent?
1		



```
Page 53
         As far as -- statements as far as?
1
    Α
2
         I'll ask a better question.
3
    Α
         Okay.
         Do you remember giving a statement to the police
5
         with regards to Liberty Ridge Farm?
         No. I had not given any written statements for
6
    Α
7
         it, no.
8
         Okay. Did you give any verbal statements to the
9
         police?
10
         I talked to -- no, I don't think it would be
11
         admissible, no.
12
                   MS. WYNKOOP: Honestly, I think I'm
         almost done. Do you mind if we just take five so
13
14
         I can go through my notes?
                   MS. FRANCHI: Yeah, that's fine.
15
                   MS. WYNKOOP: I did tell you I was
16
17
         quick.
18
                   THE VIDEOGRAPHER: The time is
         11:22 a.m. We're going off the record.
19
2.0
                      (Discussion off the record.)
                   THE VIDEOGRAPHER: The time is
21
22
         11:47 a.m. We're back on the record.
23
                   MS. WYNKOOP: All right. So I'm about
         done with my questions. Obviously after your
24
25
         counsel goes, I might have a few more, but for
```



```
Page 54
         now, I'll pass it over to Renee.
1
    BY THE WITNESS:
2
3
         Can I say that -- did you want anything on that
         one statement question? Because I did provide a
         statement to -- it was a recording, a podcast with
5
         The Plain People's podcast. I kind of gave my
7
         life story, slash, and then there was stuff in
         there about Liberty Ridge Farm too.
    BY MS. WYNKOOP:
9
10
        Okay.
        FYI, so.
11
        Okay. Thank you.
12
13
                   MS. FRANCHI: All right. So my turn.
14
                            EXAMINATION
    BY MS. FRANCHI:
15
         All right. So there's just a few -- some
16
         background things, Robert that I wanted to ask you
17
         about just to provide a little bit of
18
         clarification on some of the discussion that you
19
        had with Meghan earlier.
20
21
                        So I want to take you back to your
22
         early childhood. Tell me a little bit about your
23
        general background starting with your birth
24
         parents. Do you know them at all?
25
    Α
        No.
```



Page 55 Do you know what their -- what their background 1 2 is, like their ethnicity or anything like that? 3 I think they're Hispanic from what I recall hearing anyways. 5 Otherwise, though, you had no contact with them, no knowledge really about them? 6 7 No, nope. Okay. So tell me a little bit about just your 9 childhood and growing up and some of the 10 experiences that you had that led you ultimately up to Liberty Ridge. 11 12 I'm assuming that being bounced 13 around a lot, it wasn't necessarily happy and that 14 there was probably some trauma there. 15 So I think the biggest one was obviously, you know, the childhood trauma I got when I was 16 17 super young. I was -- this is what I was told 18 from my foster and birth -- sorry -- from my 19 20 foster and my adopted parents. Obviously, I don't 21 have -- I didn't have access to medical records. 22 But this is kind of what I'm hearing, that I was 23 an alcohol -- or I'm not sure exactly what they 24 call it. But my mom drank before she had me, so there was definitely some alcohol involved. 25



Page 56 I was also a malnutrition baby. 1 2 They failed to feed me, stuff like that. And then 3 I think somewhere along the line doctors labeled me failure to thrive, if I remember right, and then -- let's see here. That's more or less kind 5 of my super -- you know, when I was super young. 6 7 I really don't remember any of that honestly. Oh, yeah, there's one other big 9 Supposedly there was shaken baby syndrome 10 somewhere along the line. My parents -- or my birth parents did that to me. 11 12 And then from there, I went to my 13 foster parents, and that's kind of where I really 14 started thriving there according to my foster 15 parents. Now they're dead, so really can't go back and ask them, but that's what I remember 16 hearing from them anyways. That's kind of really 17 where I started thriving. I kind of went from 18 there. 19 2.0 And then from that point, I went over to -- I got adopted; and then I was sexually 21 22 abused at a very young age there. And then from 23 there, it was kind of just a really rocky 24 challenge because I couldn't really -- yeah -- I couldn't really fit in, you know, just a very 25



```
Page 57
         violent child/rebellious or whatever they called
1
2
         it, and that's the reason I kind of got moved
3
         around, you know. So that's kind of, you know, in
         a nutshell what all happened.
5
         About how old were you when you were sexually
         abused?
6
7
         If I remember right, I was five or six, somewhere
         around there.
9
         Do you remember who --
10
         It was shortly after I was adopted.
        Okay. Do you recall who the perpetrator was?
11
12
    Α
        Yes. It was my older brother. I think he was 18,
13
         17 or 18 at the time, but yeah.
                         Do I say his name? I don't care.
14
15
         You can if you want to.
        Stanley -- Stanley Miller, yep.
16
17
         Did anybody know this was going on?
         Yes. I told my parents, and I got punished for
18
         it.
19
        You got punished?
20
    Q
21
    Α
         Yep.
22
         Was there anybody else you're aware of that found
23
         out?
        I didn't really -- not at the time.
24
                         I didn't really -- I didn't really
25
```



```
Page 58
         bring anything else up at the time till I was
1
2
         age -- I was really having a lot of the struggles
3
         with Steven and Bonita at their place, and I
         wasn't fitting in. I'm not sure whether it was
5
         before or after I went to Liberty Ridge Farm.
         Somewhere along the line I brought it up and said,
6
7
         Hey, this is what happened and -- or I mentioned
         it in passing to one of my then mentors.
9
         was Dale Martin, Dale Eugene Martin.
                                                He was kind
10
         of labeled a mentor. And I kind of mentioned --
11
         or brought something up to him, like, hey, this
12
         is, you know, kind of what happened; and that's
13
         kind of like where he was, like, that's sexual
14
         assault, sexual abuse. So that's kind of where I
15
         learned about it and yeah.
         Why did you get punished?
16
17
         Because -- okay. So my dad punished me, and I'm
         pretty sure that one was because -- I'm not sure
18
         exactly why.
19
2.0
                         But I'm pretty sure that one -- in
21
         my childhood's memory, I remember it as I was the
22
         one doing the wrong, and yeah.
23
         What was the punishment?
24
         He gave me a whipping, corporal punishment, yep.
         So I'm sure getting bounced around from home to
25
```



Page 59 home was pretty difficult for you growing up, not 1 2 to put words in your mouth, but I can imagine. 3 Yes, yeah. Tell me about how it made you feel as a child at 5 that time when you kept getting moved from place to place. 6 7 After a while, you just kind of get the instinct or the thing -- the fight to survive instinct. 9 That kicks in. 10 However, when I went and moved to Illinois, I guess that's kind of where I felt like 11 12 I like the place, I kind of liked the people at 13 the time, you know. I kind of in my young --14 being a young child, that's kind of where I, you 15 know, dreamed, like, okay, maybe I'll at least have a shot at maybe a normal life, you know. 16 17 But I do remember somewhere along the line, I got told I was going to have to move 18 and that just -- yeah. That definitely was kind 19 20 of quite heartbreaking. After that, I just kind of shelled up into my own shell and, yeah, pretty 21 22 much survived after that. 23 Did it feel like you just didn't have a place? How was that? 24 I said, Did it just kind of feel like you didn't 25



```
Page 60
         really have a place after that?
1
2
         Yes, yes.
    Α
3
         Now, growing up before you went to Liberty Ridge,
         did you ever get any, I guess, traditional therapy
4
5
         or did your parents try to, like, do any type of
         medical treatment to -- you know, to help you with
6
7
         your trauma or, you know, work through your
         behaviors?
9
         No. Chiropractors was probably their biggest
10
         therapy.
                   There was one point we went up to
         Colorado -- well, first they tried sending me over
11
12
         to my foster parents because they figured maybe,
13
         you know, that younger connection with me, maybe,
14
         you know, they could connect with me. Obviously,
         that didn't work.
15
                         From there, they went up to a
16
17
         doctor -- or a so-called doctor in Colorado; and
         I'm not sure exactly what the treatment was
18
         called, but it was where they stuck balloons up
19
20
         your nose to try to address the -- some front bone
         on your -- this is what the doctor claimed.
21
22
                         Some front bone on your skull,
23
         supposedly that bone could put pressure on parts
24
         of your brain that affect behavioral health, stuff
25
         like that. News to me, but yeah, anyways, that's
```



```
Page 61
         what they told me.
1
2
         Was that the only time that you had this procedure
3
         done where they tried to move the bones in your
         face?
5
         No. We went up there several times where they did
         that; and then that was more or less kind of the
6
7
         extent of that treatment, and then yeah.
         haven't had any other treatment after.
9
         Did it make you feel any better?
10
    Α
         No. It was painful. It was extremely painful.
         I'm assuming it didn't change your -- your
11
12
         behaviors?
13
         Oh, absolutely not, nope.
         So once you got to Liberty Ridge and you were
14
         moved from, you know, place to place and you kind
15
         of settled there, how did you feel?
16
17
        At Liberty Ridge or --
        Just with the idea of just having to go somewhere
18
         else, getting removed from your different families
19
20
         and then, I guess in your brain at the time, you
21
         know, what was the feeling when you first got
22
         there?
23
         I guess a lot of it was subconscious. I was quite
         terrified at first.
24
25
                        Like I said, I was in a fight to
```



		Page 62
1		survive instinct mode then. That's why I said I
2		don't remember everything. I kind of pushed
3		everybody out and, you know, didn't really you
4		know, it was more or less fight to survive.
5		I don't really remember much,
6		but other than that's where I kind of also, you
7		know, pushed buttons there, you know, figured out
8		what they would react on, what would cause them to
9		make me do my punishment, stuff like that.
10		When I realized that, that it was a
11		super sensitive place, that's kind of where I
12		hunkered down and survived, and I knew I was going
13		to be there for a year. So you play happy or
14		play you know, you kind of learn to, like,
15		mentally be okay with your surroundings while
16		you're in there. Another instinct mode, yes.
17	Q	So you were kind of on autopilot?
18	А	More or less, yes.
19		I would even I would go as far
20		even to how long David get him in trouble
21		before I would get in trouble. That way, I was on
22		the moral high ground, you know, so
23	Q	Was that the type of atmosphere they put you in,
24		to make sure that you were the one that was on the
25		moral high ground?



```
Page 63
1
         I would say yes.
2
                         They also instigated it kind of
3
               You could kind of tell when David had his
         good days and when he had his bad days; and then
5
         when he had his bad days, it was like, number one,
         I was supposed to be able to -- I was supposed to
6
7
         tell if something bad was -- or something was out
                   Two, they kind of instigated or they
9
         would push his buttons kind of to get him to
10
         react; and then once he reacted, then it was
         hands -- you know, let's go hands-on with the guy,
11
12
         you know, so...
         And when you say "they," who would that be?
13
14
         Ethan Weaver was the main instigator as far as
15
         pushing the buttons. The Ebersol guy was another
         big one. It was mainly the house parent and the
16
17
         mentors -- the two mentors there at the time.
                         We had some very by-the-book
18
         mentors that were there, and they would also do
19
         their fair share of pushing buttons too.
20
         What were some of the things you observed when you
21
22
         say, like, pushing buttons and instigating?
23
         do you mean?
24
         As far as?
25
         When it comes to David and his mental illness and
```



Page 64 behaviors. 1 So basically, they would -- their whole idea --2 3 and this is kind of a little bit of background on them. Their whole idea is to work out rebellion, 5 you gotta bring it to the surface. And I kind of felt that they would -- they would sit there and 6 7 start talking to him, you know, like as far as their beliefs, for example. 9 If they had a belief, a conversation on, you know, beliefs or something 10 like that, they would really push their side of 11 12 thinking; and that would just irritate him to the 13 point where he was -- he would get violent, you 14 know, because he wasn't thinking rationally, and then it would go from there, you know. 15 Was it your --16 17 Whether he was doing --Oh, sorry. No, no. You can finish. 18 Whether he was doing punishments or -- and 19 Α 2.0 oftentimes, once he got violent, he was doing 21 punishments, then he'd get disrespectful; and then 22 they would just keep pushing him on from there 23 sometimes to the point of violence, like, where 24 they would have to hold him down. There was 25 multiple times they had to do that, so...



		Page 65
1	Q	Was it your understanding when you were there that
2		David had some pretty serious mental illnesses?
3	A	Yes, yes.
4	Q	Did you or David or any of the other residents
5		ever receive any, like, therapy or treatment while
6		you were at Liberty Ridge? Like did they bring
7		anybody in to address those issues?
8	А	No.
9	Q	Did anybody speak to you about any treatment for
10		your history of trauma?
11	А	No.
12	Q	So you had mentioned that you did have one
13		consequence, that you worked overnight, correct?
14	А	Uhm-hm, yes.
15	Q	Was your food or water ever restricted during that
16		time?
17	А	Yes. I had one glass of water and then yeah,
18		that was it.
19	Q	About how long were you doing this work for during
20		your consequence?
21	A	If I recall, it was all night I was doing it. I
22		got the glass of water probably three or four
23		hours into it, something like that.
24		And it wasn't easy digging either.
25		It was super rocky. So yeah, that was fun.



```
Page 66
         I'm assuming that's sarcasm?
1
    0
2
                That's definitely sarcasm.
    Α
3
         There was some talk earlier when Meghan was asking
         you questions about -- about chores and then work.
5
                         Explain to me your experience
         there, that there was a difference between, you
6
7
         know, the household chores in the morning and the
         actual work that you were performing.
9
         So your household chores was, you know, cleaning
10
         dishes, stuff like that. That didn't -- the
11
         biggest one was, like, raising the chickens for
12
         the live market. That was more or less work.
13
                         Yeah. Household chores, you just
         do your normally daily duties as far as, you know,
14
15
         washing the dishes or, you know, just normal small
         stuff, but everything else had a purpose.
16
17
         And everything else would include, like, the
         lumber work, any of the other -- basically the
18
         actual, like, labor that you did, correct?
19
20
         Yes, yep.
    Α
         Okay. I'm almost done, I swear.
21
22
                         What was your understanding when
23
         you were at Liberty Ridge of what would happen if
         you, you know, spoke out or voiced any, you know,
24
25
         concerns about your treatment or anything like
```



```
Page 67
         that?
1
2
         I felt that I would either -- okay.
3
                         So the big narrative in the Eastern
         Mennonite church or in the plain churches in
5
         general, the big narrative is -- and they'll
         preach this across their pulpit, that law
6
7
         enforcement looks up to them.
                         And I guess I felt like -- and
9
         Ethan Weaver went as far as to say that too,
10
         where, you know, if we -- if we ever ran away or
11
         whatever, law enforcement would bring us back to
12
         the place or -- it was either that or punishments.
         Those two things I was worried about.
13
14
         Would this also include if you -- you know, if you
15
         didn't want to work or basically do what they had
         said?
16
17
         You would get punishments, yes, yes.
                         And I guess my other biggest fear
18
         was, is if I did end up leaving or whatever, I
19
20
         would have no support system outside of, you know,
21
         that culture. So I'd be pretty much homeless at
22
         that point.
23
        As a teenager?
        Yes, yeah.
24
25
        Do you remember seeing any times -- I know that
```



```
Page 68
         you had mentioned David being physically
1
2
         restrained.
3
                         Do you remember seeing any times
         where he was physically restrained for, you know,
5
         long periods of time?
              One time was downstairs, and I heard him
6
7
         down there. He was hollering around making a
         bunch of ruckus down there because -- I don't know
9
         exactly what happened, he told me what happened,
10
         but I know he was held inside the building
         downstairs.
11
12
                         The other time I saw was when he
13
         was three-quarter away from -- and they may have
14
         changed the property. But at that time there was
         like a small building down below closer to the
15
         driveway, and then the main house was up higher,
16
17
         and there was kind of a small hill going down to
         it, and he was about three-quarter way down here.
18
         And they went hands-on with the guy and tied him
19
         up, put him on the ground, you know, so yep.
20
         How long was he tied up for?
21
22
    Α
         Hours.
23
         And he was outside?
    Q
24
         Yes. That was --
25
        Do you remember --
```



```
Page 69
         -- 9:00 at night, something like that.
1
    Α
2
         And how was he tied?
3
         I don't know. I didn't see it.
                         He told me he was tied up with
4
         bands of some sort, but I don't know.
5
         Did you -- did you see him when he was out there?
7
               Yes, I saw him. I saw -- it took, like,
         three guys to hold him down.
9
         And did you see him when they tied him up and left
10
         him out there?
              They stayed out there with him, but yeah.
11
12
         didn't pay attention the whole time. I was
13
         upstairs via --
         Just trying to keep to yourself?
14
                There was definitely times I got glimpses
15
16
         of it, yes.
17
         Okay. I think those are all the follow-up
         questions that I have unless there's anything
18
         else, Robert, that you feel to -- you know, that
19
20
         you want to say or that there's anything else
21
         important to you.
22
         Yeah. Those weren't the only circumstances.
23
                         There was other times too, like,
24
         you could hear the guy like obviously was, A, in
25
         distress or, you know, stuff was happening. There
```



```
Page 70
         was at one point, yeah -- I can't really say much
1
2
         other than that.
3
         Did you see times where David had to work
         overnight?
4
5
    Α
         Yes. Oh, yeah, yep. He worked quite a bit.
                                                         Не
6
         pushed that -- he pushed their buttons quite a bit
7
         more than I did.
         About how many times, if you recall, was he
9
         working overnight?
10
         More than five or six. I can't really recall, but
         definitely more than five or six.
11
12
    Q
        Enough that you remember that --
13
    Α
         Oh, yeah, yeah.
         -- happened?
14
15
    Α
         Yep.
         And when this is going on, you know, at some point
16
17
         do you just go to bed or where were you?
         Yes. Most times I was in bed, yes.
18
    Α
         All right. I think that's everything from me.
19
    Q
20
    Α
         And then can I also bring in one other point?
         Sure.
21
    Q
22
         Joel Nolt -- I think it was Joel Nolt or was it --
23
         sorry. Okay.
24
                         Here's one -- I think I figured out
25
        the guys that was downstairs that gave us those
```



```
Page 71
         glasses. His name was Eugene Nolt if I remember
1
2
         right, and there was a guy named Joel something.
3
         And I could -- I could have these names kind of
         screwed up too.
5
                         But he was a guy that came over and
         helped restrain David at one of those points.
6
                                                          Ιt
7
         was the one where they were, like, three-quarter
         way down to that other house or building.
9
         he was definitely there. So yep.
10
         At any point when David was really in -- you know,
         in distress from his mental health, did they ever
11
12
         take him, you know, to the hospital or to a crisis
13
         center or anything like that?
         No, absolutely not. They didn't even get
14
15
         emergency services there for any of that.
                   MS. FRANCHI: All right.
16
                                              Thank you,
17
                  I think that's everything we have now.
                         Sorry I went a little bit longer
18
         than I was -- I was planning, but I felt like we
19
20
         had a good dialogue going. So I appreciate it.
                                                           I
21
         don't know if Meghan has any more follow-up
22
         questions.
23
                   MS. WYNKOOP: I do, just a couple.
24
25
```



```
Page 72
                        FURTHER EXAMINATION
1
2
    BY MS. WYNKOOP:
3
         So before your attorney started asking you some
         questions, we had a pretty extended break and then
5
         when we came back on the record, you provided some
         clarification about an answer.
7
                         During the break -- and I don't
         want to know anything about conversations before
9
         this deposition -- but during the break, were you
10
         asked to provide any clarification on your prior
        testimony?
11
12
    Α
      As far as?
13
        From your attorney.
                   MS. FRANCHI: I'm going to object.
14
15
                   MS. WYNKOOP: So I have a case any
         conversations about -- related to clarification or
16
17
         coaching during the course of a deposition are not
         privileged.
18
                   THE WITNESS: Okay. What are we talking
19
         about as far as clarification I want to know?
20
    BY MS. WYNKOOP:
21
22
         Were you asked to provide any clarification on the
23
         record about your answers?
        Not that I can recall, no.
24
25
                         I tried to get -- figure out what
```



```
Page 73
         you're talking as far as clarification goes. Like
1
2
         I cleared up a little bit more as far as my
3
         childhood.
                   MS. FRANCHI: Here. I'm going to stop
5
         at this second. Can we just go off the record for
         a moment?
6
7
                   MS. WYNKOOP:
                                  Sure.
                   THE VIDEOGRAPHER: The time is
9
         12:11 p.m. We're going off the record.
10
                     (Discussion off the record.)
                   THE VIDEOGRAPHER: The time is
11
12
         12:12 p.m. We're back on the record.
13
                   MS. WYNKOOP: So we just got off the
14
         record to give some context to my question.
         now that we're back on the record, I'll ask
15
         because -- and just for your information that --
16
17
         there is no privilege during a deposition.
         soon as the deposition starts, privilege is out
18
         the window other than you're discussing whether to
19
20
         assert privilege.
    BY MS. WYNKOOP:
21
22
         So during that extended break, were you asked by
23
         your attorney to clarify any of your prior
24
         testimony?
25
    Α
        No.
```



		Page 74
1	Q	Were you directed to answer questions in a certain
2		way moving forward?
3	А	No.
4	Q	Were you told what the questions were going to be
5		asking about and seeking clarification about them?
6	А	Okay. How was that again?
7	Q	So were you asked what or were you told which
8		questions, in particular, were going to be asked?
9	А	We talked about some of the questions coming up,
10		yes, that she was gonna, you know, talk about.
11	Q	Okay. So I'm going to take you back to some of
12		the testimony that we just got from you, and I
13		believe that you have referenced David Cross
14		getting violent while he was there.
15		Do you remember saying that?
16	А	Yes, yep.
17	Q	Can you explain what you meant by that or what you
18		observed?
19	А	I just explained it as far as
20	Q	I'm sorry. As far as what his behavior was, what
21		did he do that you could consider to be violent?
22	А	He would try to physically assault them, yeah.
23	Q	Who is "them"?
24	А	The mentors and the house parent.
25	Q	Did you ever see David punch or strike any of the



```
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         mentors or the house parents?
1
2
         If I recall, yes, once, yes.
3
         Did you ever see him try to hit anyone with a
         shovel?
5
        Heard of that; didn't see it.
        We talked a little bit about the physical
7
         restraint. By physical restraint that you saw,
         was it mostly just either the mentors or the house
         parents kind of holding David with their hands?
9
10
         Yes, yes. It took, like, three of them to -- for
         the most part, they held him down with their
11
12
         hands. Every now and then I heard that he was
13
         tied up.
        Did you ever see any of the actual ties or did
14
15
        David just tell you about it?
        He told me about it.
16
17
         Was the physical restraining, did that ever
         occur -- strike that.
                         Was the physical restraining in
19
20
         response to the violence?
21
        Yes, yes.
22
                         It is important, though, that
23
         they -- to bring up, that they -- there's a thing
24
         of deescalation to a situation that definitely was
        not used in that situation.
25
```



```
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                         It was more of an escalation
1
2
         through words; and then from there -- they knew
3
         obviously he was weak-minded. So from there, he
         was the -- he instigated the violence -- or sorry.
5
         He was the first one that was the violent person,
         and then they were able to restrain them then. So
6
7
         they definitely instigated it through words,
         though.
9
         David was a resident there before you became a
10
         resident, right?
11
    Α
        Yes, yes.
12
    Q
        And was he a resident there after you became a
13
         resident?
14
    Α
         Yes.
15
         Do you know about how long he was there before and
         after you?
16
         I'm not sure exactly. I think it was around a
17
         year, maybe longer. I'm not sure.
18
         Okay. So you only saw about a year of his time as
19
    Q
         a resident?
20
21
        Yes, yes.
22
                   MS. WYNKOOP: That's it for me.
23
                   MS. FRANCHI: Okay. I have no further
24
         questions. We can go off the record.
25
                   THE COURT REPORTER: I do need to get
```



```
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         orders on the record.
1
                   MS. FRANCHI: Sure.
 2
 3
                   MS. WYNKOOP: I'm sorry. Orders?
                   THE COURT REPORTER: Orders of the
 5
         transcript.
                   MS. WYNKOOP: Oh.
 7
                   MS. FRANCHI: Oh, ho. I was like okay.
                         I would just like an electronic
                I don't need a physical, like, hard copy of
 9
         copy.
10
         it.
                   MS. WYNKOOP: I will also just like an
11
12
         electronic copy.
13
                   THE VIDEOGRAPHER: And for video orders,
14
         you both need MP4s, right?
15
                   MS. WYNKOOP: Yes, please.
16
                   MS. FRANCHI: Yes.
17
                   THE VIDEOGRAPHER: Thank you.
18
         right. The time is 12:16 p.m. This concludes the
19
         deposition of Robert Miller. We're off the
2.0
         record.
21
                   MS. FRANCHI: So he'll waive.
22
                      (Proceedings concluded at 12:16 p.m.)
23
24
25
```



```
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    STATE OF WISCONSIN
                         ) SS:
    COUNTY OF MILWAUKEE
 2
                         )
 3
                 I, Debbie A. Harnen, a Registered
    Professional Reporter and Notary Public in and for the
 4
 5
    State of Wisconsin, do hereby certify that the
    deposition of ROBERT H. MILLER was reported by me and
 6
    reduced to writing under my personal direction.
                 I further certify that said deposition
 8
 9
    was taken VIA ZOOM VIDEOCONFERENCE, on October 21,
10
    2022, commencing at 10:03 a.m. and concluding at
    12:16 p.m.
11
12
                 I further certify that I am not a relative
13
    or employee or attorney or counsel of any of the
    parties, or a relative or employee of such attorney or
14
    counsel, or financially interested directly or
15
    indirectly in this action.
16
                 In witness whereof, I have hereunto set my
17
18
    hand and affixed my seal of office at Milwaukee,
19
    Wisconsin, on November 1, 2022.
20
                         Debbie A. Har
21
22
                           Debbie A. Harnen - Notary Public
                           In and for the State of Wisconsin
23
    My Commission Expires: July 27, 2026.
24
25
```



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EXHIBIT C

In the Matter Of:

D.C. AND R.M. vs.

NELSON MARTIN, et al.

Nelson Martin

October 20, 2022

HKW, LLC 764 Corporate Circle, Suite 200 New Cumberland, PA 17070 717.214.1182 Schedule@hkwllc.com



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. AND R.M.,

Plaintiffs

vs.

NELSON MARTIN D/B/A

LIBERTY RIDGE FARM, : CIVIL ACTION
LIBERTY RIDGE FARM, : NO: 5:21-CV-05070-JMG
EASTERN PENNSYLVANIA :

MENNONITE CHURCH AND

RELATED AREAS, AND MENNONITE MESSIANIC MISSION OF THE EASTERN PENNSYLVANIA MENNONITE

CHURCH,

Defendants :

DEPOSITION OF: NELSON MARTIN

TAKEN BY: PLAINTIFFS

REPORTER: TRACY L. LLOYD, RPR

NOTARY PUBLIC

KEN HAAS, VIDEOGRAPHER

OCTOBER 20, 2022, 9:04 A.M. DATE:

PLACE: MARGOLIS EDELSTEIN

214 SENATE AVENUE, SUITE 402

CAMP HILL, PENNSYLVANIA

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4 1 STIPULATIONS 2 It is stipulated and agreed by and between 3 counsel for the respective parties that the reading, signing, sealing, and filing of the transcript is 4 waived and that all objections, except as to the 5 form of the question, are reserved to the time of 6 7 trial. 8 9 THE VIDEOGRAPHER: The date today is 10 October 20th, 2022, and the time is 9:04 a.m. 11 the videotaped deposition of Nelson Martin taken in 12 the matter of D.C. and R.M. v. Nelson Martin, et al., 13 which is filed in the United States District Court for 14 the Eastern District of Pennsylvania, Case Number 15 5:21-CV-05070-JMG. 16 This deposition is being held at Margolis 17 Edelstein, 214 Senate Ave, Suite 402, Camp Hill, 18 Pennsylvania. My name is Ken Haas, and I am the 19 videographer. The court reporter is Tracy Lloyd. 20 this time will counsel please state their appearances. 21 MS. FRANCHI: My name is Renee Franchi 22 with the law firm of Andreozzi and Foote, and I am the 23 attorney for the Plaintiffs. Meghan Wynkoop, Margolis 24 MS. WYNKOOP: 25 Edelstein, and I represent the Defendants.

1	5 MR. MENDEZ: Jocelyn Mendez, Margolis
2	Edelstein, and I represent the Defendants.
3	THE VIDEOGRAPHER: Will the court
4	reporter please swear in the deponent.
5	
6	NELSON MARTIN, called as a witness, being
7	affirmed, testified as follows:
8	
9	THE VIDEOGRAPHER: Please begin.
10	
11	EXAMINATION
12	
13	BY MS. FRANCHI:
14	Q. Good morning, Mr. Martin. Thank you for
15	coming in today. Off the bat, my name is Renee
16	Franchi. I know we introduced ourselves briefly
17	earlier. I represent the Plaintiffs David Cross and
18	Robert Miller in this case.
19	Before we start with the questions about
20	the case matter, there are some preliminary matters
21	that we just need to go over expectations and rules
22	for today.
23	I did forget before we begin that two
24	days ago when we started, counsel and I put several
25	preliminary matters that we agreed on onto the record

6 1 so that we don't need to repeat them again. We agree 2 to the same preliminary issues? 3 MS. WYNKOOP: Agree. BY MS. FRANCHI: 4 So the first thing that I would like to 5 go over is that when I or your attorney, if she does 6 7 ask you any questions, when you answer, you do have to give a verbal answer. This is not just a non-verbal 8 9 response such as uh-huh or a head nod or a head shake. 10 Even though we do have a videographer 11 here, we do have a stenographer who is typing down all 12 the words, so she can only type down verbal responses. 13 So I just want to make sure that you will be able to 14 give verbal responses today. Will you be able to do 15 that? 16 Α. Yes. 17 Next, if you're asked a question 0. Okav. 18 that you don't understand or it doesn't make sense 19 whether it be because I worded it confusingly, spoke 20 too fast, or for any other reason, please feel free to 21 say that you do not understand the question or that 22 you would like for me to repeat the question just to 23 make sure that you do fully understand what is being 24 asked. Can you do that today? 25 Α. Yes.

7 1 In that same light, if you're asked a Q. 2 question and you do answer with a verbal response, then I will assume that you understood the question. 3 Is that fair? 4 5 Α. Yes. Now, I expect that we will be here for a 6 0. 7 few hours today. We might need to take a break for But if at any point during the day and during 8 lunch. 9 your deposition you do need to take a break to use the 10 restroom or get something to drink, stretch your legs, 11 or for any other reason, that's perfectly fine. 12 Just let me know or let your attorney can do so. 13 know. 14 The only restriction is that if there is 15 an answer pending. So say that I ask you a question 16 and then you haven't answered yet, you just have to 17 answer the question before we can take a break. Does 18 that make sense? 19 Α. Yes. 20 0. Okay. Now, during this deposition I may 21 ask you to estimate or approximate a number or a date or a time if you do not recall something specifically. 22 23 Please do not take a quess or a stab in the dark. But 24 if you do think that you can give a fair estimate or approximation, please do so. 25

8 1 For example, if I ask you when a specific 2 event happened and you say that you don't know specifically, but you think or you believe that it 3 occurred between the years of 1999 and 2004, that's 4 perfectly fine. Just let us know that you are 5 estimating or approximating. But if you simply do not 6 7 know or do not remember or you're uncertain, please Is that fair? 8 say so. 9 Α. Yes. 10 Now, the last and most important thing 0. 11 today is that you just tell the truth. That's what 12 we're here for. So if there's anything that would 13 prevent you from being able to fully testify to the 14 truth today, will you let us know? 15 Α. Yes. 16 Okay. So first, I will be starting with 0. 17 just some general background questions just to get to 18 know you a little bit. Obviously, we've never spoken aside from a few minutes before the deposition today. 19 20 And then we will move on to some more targeted and 21 specific questions. 22 You do have a binder in front of you with 23 documents in it. They are now all numbered. So when 24 I refer to a page, if I do, I will refer to the page I will give you time to turn to it. 25 number. Let me

		9
1	know if you	need more time to look at it or get to the
2	page. I'll v	wait for you to make sure that you have
3	what you need	d in front of you.
4		Your attorney may have questions for you
5	after I am f	inished at the end of the day today. Do
6	you have any	questions before we get started?
7	A.	No.
8	Q.	Okay. So right off the bat, what did you
9	do, if anyth:	ing, to prepare for your deposition today
10	other than s	peaking with your attorney? I don't need
11	to know about	t that.
12	Α.	I basically just reviewed the ledger a
13	little bit.	
14	Q.	So you reviewed some documents?
15	A.	Mm-hmm.
16	Q.	Okay. So obviously we know your name.
17	But if you co	ould just for the record one more time,
18	what is your	full name?
19	A.	Nelson G. Martin.
20	Q.	And how do you spell your last name?
21	A.	M-a-r-t-i-n.
22	Q.	What's your date of birth?
23	A.	12/10/63.
24	Q.	And where were you born?
25	A.	Lebanon County.

1	Q.	Lebanon County, Pennsylvania?
2	A.	Yes.
3	Q.	And that's where you live now?
4	A.	Yes.
5	Q.	Have you always lived in Lebanon County?
6	A.	Yes.
7	Q.	And what do you do for a full-time job?
8	A.	I farm and do a little bit of sideline
9	truck driving	g for myself.
10	Q.	And where do you farm at?
11	A.	Myerstown, PA.
12	Q.	Do you use your home property?
13	A.	Yes.
14	Q.	Okay. And do you own the business?
15	A.	Yes.
16	Q.	What's it called?
17	A.	It's Nel-Ray Farms.
18	Q.	And how long have you owned this company?
19	A.	It started in 1988.
20	Q.	And did you start it?
21	A.	Yes, with my brother.
22	Q.	Okay. What's your brother's name?
23	A.	Glen.
24	Q.	Same last name?
25	A.	Yes.

1	Q.	Does he also live in Myerstown?
2	Α.	Yes.
3	Q.	And you said you also do some trucking on
4	the side. W	hat company do you work for?
5	Α.	Nel-Ray Farms.
6	Q.	Okay. It's through the same operation?
7	Α.	Mm-hmm.
8	Q.	Is the trucking related to the products
9	from your fa	rm or
10	Α.	Yes.
11	Q.	Okay. So are you contracted ever for
12	other items?	
13	Α.	Yes. Sometimes for my neighbor I haul
14	containers o	ut of New Jersey.
15	Q.	Okay. So occasionally you do interstate.
16	What's your	neighbor's name?
17	Α.	James Huber.
18	Q.	What's your education level?
19	Α.	8th grade.
20	Q.	And then what did you do after 8th grade?
21	Α.	Worked on the farm.
22	Q.	Were your parents farmers?
23	Α.	Yes.
24	Q.	So was this on the same property that you
25	are on now o	r were they located somewhere else?

1	А.	It's some of the same, some on the same
2	property and	some other places, but all in the same
3	area.	
4	Q.	Okay. Are your parents still alive?
5	A.	No.
6	Q.	What were their names?
7	A.	David and Lavina Martin.
8	Q.	And did they have a business as a farm or
9	was it just t	cheir home farm?
10	Α.	It was their home farm.
11	Q.	Okay. Was it registered as a business?
12	A.	Yes. Dutch-Way Farms would have been
13	his.	
14	Q.	When did your parents pass?
15	Α.	2014 and '18.
16	Q.	So Dutch-Way Farms, is it still in
17	existence or	did it end when they passed?
18	Α.	It's not in existence anymore.
19	Q.	Okay. Are you married?
20	Α.	Yes.
21	Q.	What's your wife's name?
22	Α.	Eva Jane Martin.
23	Q.	I'm assuming you live together?
24	Α.	Yes.
25	Q.	Is there anybody else that lives with

1	you?
2	A. Our two youngest sons.
3	Q. How many children do you have?
4	A. Six boys, one girl, and one foster son.
5	Q. So all the rest of the children have
6	already moved out?
7	A. Mm-hmm. Yes.
8	Q. Do they live in the area?
9	A. For the most part. One lives in New
10	Jersey and married. The foster son lives in Florida
11	and runs a shed manufacturing plant.
12	Q. Okay. Do you have any grandkids?
13	A. 20.
14	Q. Do you remember all their birthdays?
15	A. No.
16	Q. So other than Nel-Ray Farms and the other
17	Dutch-Way Farms that we had spoken about with your
18	parents, do you have any ownership interests in any
19	other businesses other than Liberty Ridge, just
20	anything else?
21	A. No.
22	Q. Okay. Do you have any financial
23	interests in any other businesses other than the ones
24	we spoke about or Liberty Ridge?
25	A. No.

		14
1	Q.	Where do you do your banking for your
2	business? Is	s it somewhere local or is it a national
3	bank?	
4	A.	It's a local bank.
5	Q.	Which one do you use?
6	A.	Ephrata National Bank.
7	Q.	Is that where your personal accounts are
8	as well?	
9	A.	Yes.
10	Q.	So I know you said that you have a farm.
11	I'm assuming	you own the property that your farm is
12	on?	
13	A.	Yes.
14	Q.	Is it in your name or a business name?
15	Α.	It's in personal name.
16	Q.	Okay. Do you own any other properties?
17	A.	Yes. There's a few.
18	Q.	Okay. If you can, where generally?
19	A.	All in the Myerstown area.
20	Q.	Okay. Are they farm plots? Are they
21	just resident	tial business combination?
22	A.	Farm plots within yeah, just farm
23	plots basical	lly.
24	Q.	Okay. And is that where you do a lot of
25	your farming	for your business?

		15
1	A.	Yes.
2	Q.	Do you use any other properties for your
3	business other	er than the ones that you own?
4	Α.	Yes.
5	Q.	And what type of farming do you do? I
6	know we're ta	alking generally about farming, but
7	obviously the	ere's a whole lot of different things that
8	you can do.	
9	Α.	Grain.
10	Q.	What kind?
11	Α.	Corn and soybeans.
12	Q.	Does it rotate?
13	Α.	Wheat. Yes.
14	Q.	Do you have any employees?
15	Α.	No.
16	Q.	Just you?
17	Α.	Yes.
18	Q.	Do any of your family members have an
19	ownership or	financial interest in your business or
20	any business	that you own?
21	Α.	No.
22	Q.	So I'm going to jump ahead a little bit.
23	Again, there	's really no easy way to transition from
24	one subject t	to the other other than just jumping right
25	in.	

16 1 So I kind of want to start a little bit 2 at the beginning before Liberty Ridge was created, I guess when the idea became more a concept that was 3 4 being discussed. Were you in any way involved with the 5 Mennonite Messianic Mission -- I'll just call it the 6 7 Mission from now on. It will be easier. Were you involved with the Mission in any way prior to the idea 8 of Liberty Ridge being discussed? 9 10 My only involvement -- I was really not 11 involved with the Mission. I was on the committee for 12 South America for one of our church missions down there, so I would get to some of their Mission Board 13 14 meetings, but I was not part of the Mission Board 15 never. 16 Did you get to travel in that position? Q. 17 Α. Yes. 18 Q. Where did you go? 19 Α. Paraquay. 20 Q. For how long? 21 Up to ten days to two weeks sometimes. Α. 22 And that was your only involvement 0. 23 with the Mission prior to that? 24 Α. Yes. Was that a paid position or volunteer? 25 Q.

1	Α.	Volunteer. 17
2	Q.	Do you remember about when that was?
3	A.	2004.
4	Q.	Were you involved in any of the Mission's
5	discussions a	about starting a boys home prior to being
6	placed on the	e Liberty Ridge committee?
7	A.	No.
8	Q.	So how did you first become involved with
9	the Liberty	Ridge or the boys home committee?
10	A.	The church asked me if I would want to
11	serve on the	committee.
12	Q.	When you say the church, who do you mean
13	by that?	
14	A.	The Mission Board, the Mission.
15	Q.	The Mission Board, okay. Do you remember
16	who it was s	pecifically?
17	A.	No.
18	Q.	And do you recall when about that was?
19	A.	Approximately 2008, give or take.
20	Q.	So when you were approached by someone on
21	the Mission	Board, did they tell you what exactly it
22	was they wan	ted you to do?
23	A.	Yes.
24	Q.	What was that discussion?
25	A.	It was to support families with troubled

1	boys.	18
2	Q.	And was it discussed that they wanted to
3	do so by ope	ning either a group home or placing the
4	boys somewher	re?
5	Α.	No.
6	Q.	Okay. How were they planning on
7	facilitating	the help for these boys?
8	Α.	We would just give the parents support.
9	Q.	Okay.
10	Α.	As far as, you know, how to work with the
11	boys and that	t kind of thing.
12	Q.	So it was a little less organized than it
13	became?	
14	A.	Yes.
15	Q.	Okay. And how long was that going on
16	for?	
17	Α.	A couple years.
18	Q.	At what point did your work with the
19	Mission turn	into the more organized boys home
20	committee?	
21	A.	Maybe 2009.
22	Q.	Okay. Do you recall how that transition
23	occurred from	m individually helping families to
24	deciding that	t there may be a boys home implemented?
25	A.	It was basically from the standpoint of

	19
1	it just wasn't working to have these boys in the home,
2	and the parents were up against, and so we looked into
3	starting a facility where we could help the boys.
4	Q. In the families that were targeted to
5	help, these were all families that were within the
6	Eastern Pennsylvania community?
7	A. Yes.
8	Q. Okay. Did you have any relatives on the
9	Mission Board or anybody that you were related to?
10	A. There's a cousin that would all the
11	bishops of the Eastern Pennsylvania Mennonite Church
12	are they're the members of the Mission Board, so I
13	guess no.
14	Q. So when you say they're not members, it's
15	my understanding they're more like advisors when it's
16	needed?
17	A. Correct.
18	Q. Okay. We learned a few days ago about
19	the structure of what we call the church is more of a
20	nebulous association of congregations that advise the
21	board, correct, and the congregations?
22	A. Yes.
23	Q. Okay. So once the boys home committee
24	was starting to be established, did your duties and
25	responsibilities change at all?

	20
1	A. Not really.
2	Q. Okay. Do you recall when about the
3	Mission Board began to bring in other individuals to
4	serve on the committee with you?
5	A. In that 2010 to '12.
6	Q. Okay. Excuse me. When you were on this
7	boys home committee, which I believe it was the boys
8	home committee before Liberty Ridge name was chosen;
9	correct?
10	A. Yes.
11	Q. Okay. When you were on this boys home
12	committee, did you attend any Mission meetings?
13	A. Yes.
L4	Q. Would it be every meeting? Just
15	sporadically? Was there any structure to it?
16	A. There was no structure to it.
L7	Q. Okay. Tell me about the committee's
18	relationship with the Mission Board while it was still
19	kind of investigating the concept of a boys home.
20	And if you'd like more clarification, I'm
21	kind of looking in the direction of did the Mission
22	Board provide guidance? Did they ask you to do
23	things? Did you act on your own and report back or
24	was it a combination?
25	A. It was basically we, as a committee,

	21
1	would report to them what our goals are.
2	Q. Okay. What I'm going to do oh, gosh.
3	There goes my voice. Excuse me. This is what happens
4	when you talk for two days, so I apologize if my voice
5	comes in and out for a bit. I'm going to turn you to
6	Page LRF-36. It's about halfway through. I'll give
7	you a few seconds to get there.
8	THE VIDEOGRAPHER: Off camera time is
9	9:24.
10	(Discussion held off the record.)
11	THE VIDEOGRAPHER: On camera time is
12	9:25. Please continue.
13	BY MS. FRANCHI:
14	Q. All right. Mr. Martin, so before we took
15	a brief break, I had asked that you turn to Page 86.
16	Have you reached the page?
17	A. Yes.
18	Q. Okay. So in front of you is the first of
19	several pages of meeting minutes from the Mission
20	Board. It goes from Page 86 to 95. So you had told
21	me that you had kind of loosely became involved with
22	the Mission maybe around 2008 or 9 you said; correct?
23	A. 2004 when I was on the Paraguay. Oh, you
24	mean with this?
25	Q. Yes, yes.

22 1 Α. Yes, with this, yes. 2 0. So the first page where it talks about 3 the June 2nd meeting minutes, that would be Page 86, I'll take your attention down to Number 13 at the 4 bottom, close to the bottom of the page where it says 5 boys home. 6 7 Α. Yes. Where it was reported that the committee 8 0. 9 working on this interest will be at the next MMM 10 Would that be referring to you and then 11 maybe some of the new members that were assigned to 12 the task? 13 Α. Yes. 14 0. Okay. The next page, Page 87, are 15 meeting minutes from June 29th, 2010, and this time 16 it's about halfway down the page, boys home committee. 17 Do you recall if you were at this meeting? 18 Α. I can't say for sure that I was. 19 So I see here that it mentions 0. Okay. 20 various questions were addressed to committee, what 21 age boys will be eligible, what might be the operating cost, what is the next step, and then that there was 22 23 discussion afterwards, and the board would go on record approving the work based on the overall outline 24 presented to the board. 25

	23
1	So do you recall whether or not you were
2	involved in presenting any of this information to the
3	Mission Board?
4	A. Yes. I would have been involved in some
5	of these questions.
6	Q. Okay. How did you go about determining
7	what might be the operating cost of a facility such as
8	what became Liberty Ridge?
9	A. It was just a projected cost. We had no
10	idea.
11	Q. You just kind of started from nothing and
12	worked your way up?
13	A. Yes.
14	Q. Okay. Did you begin to research other
15	facilities to try to figure out how Liberty Ridge
16	would be run?
17	A. Yes.
18	Q. Okay. Did you travel to any other
19	facilities?
20	A. Yes.
21	Q. Where did you go?
22	A. Fresh Start in Indiana. Team Ranch in
23	Missouri. Lives Under Construction in Missouri.
24	Q. And are these all boys homes that are run
25	by other Mennonite organizations?

		24
1	Α.	No.
2	Q.	Do you know who runs the different homes
3	that you went to?	
4	Α.	Fresh Start and Team Ranch would have
5	been run by	Mennonite organizations. Lives Under
6	Construction	was more of a secular. They work with
7	inmates out	of prison and things like that.
8	Q.	Okay. How much time did you spend
9	traveling to	different facilities to learn from them?
10	Α.	A couple days.
11	Q.	Just here or there?
12	Α.	Yes.
13	Q.	Were there any consistencies that you
14	recall between the different places that you went to?	
15	Α.	Yes.
16	Q.	Were these things that you drew from when
17	helping to d	reate Liberty Ridge?
18	Α.	Somewhat.
19	Q.	Okay. What were the main concepts that
20	you were loc	king for when you traveled to these
21	different pl	aces?
22	Α.	Procedure of operation.
23	Q.	How many times did you go down to the
24	Team Boys Ra	nch in Missouri?
25	Α.	Once.

	25		
1	Q. Do you remember when that was?		
2	A. No.		
3	Q. Excuse me. I do apologize. So I will		
4	move your attention to the next page, Page 88, about		
5	two thirds of the way down where it says the boys home		
6	item, where it talks about the committee members being		
7	Ethan Weaver, Lamar Garman, Nelson Martin, Scott		
8	Martin, and Jacob Brubaker.		
9	Is this about the time that you recall		
10	when the committee became more than just you and maybe		
11	one other person, that there are several of you now		
12	working on the project?		
13	A. I should clarify something, and that was		
14	that from the start when I was involved it was four of		
15	us.		
16	Q. Oh, okay.		
17	A. It wasn't just me.		
18	Q. Okay. Who was it?		
19	A. It was Jacob Brubaker, Lamar Garman,		
20	Ethan Weaver, and myself.		
21	Q. When the four of you were working on it		
22	before it was kind of established as an official		
23	committee, were there any duties that you each had		
24	individually or did you kind of share the		
25	responsibility?		

		26	
1	A. It always was an established committee		
2	Q. Okay.		
3	A when we started, and Jacob Brubaker		
4	would have been chairman and Ethan Weaver secretary.		
5	Q. Okay.		
6	A. But that was as far as any kind of an		
7	established plan.		
8	Q. Okay. I'll turn your attention to the		
9	next page, Page 89. This time it's at the bottom of		
10	the page, the boys home line item where it says all		
11	five parcels of the Thompsontown property have been		
12	purchased for \$795,000.		
13	Were you involved in the purchase of the	9	
14	Liberty Ridge property at all?		
15	A. Not from a monetary standpoint.		
L 6	Q. Okay. What was your involvement?		
17	A. My involvement was that I seen the		
18	property. I looked at the property. Took the rest	of	
19	the committee to the property and would have went		
20	along to settlement, but I had nothing to do with the		
21	settlement.		
22	Q. Was the property purchased by the		
23	Mission?		
24	A. Yes.		
25	Q. Okay. Does it still remain in the		

1	Mission's name?	
2	A. Yes.	
3	Q. And correct me if I'm wrong, the Liberty	
4	Ridge property is in Juniata County?	
5	A. Yes.	
6	Q. About how far is that from where you	
7	reside in Myerstown?	
8	A. 75 miles.	
9	Q. Okay. Moving on to the next page, Page	
10	90, for the boys home line item, it mentions township	
11	approvals for the Liberty Ridge residents. Were you	
12	involved in obtaining any township approvals or any	
13	government approvals in any way?	
14	A. Yes.	
15	Q. So tell me a little bit about what it was	
16	you were involved with.	
17	A. Because this was a farm, we had to get	
18	township approval to have a boys home.	
19	Q. Okay.	
20	A. So we had a hearing.	
21	Q. Okay.	
22	A. At the township.	
23	Q. Do you have any paperwork or documents	
24	reflecting any of the approvals with the township?	
25	Anything like that?	

		28	
1	Α.	Yes.	
2	Q.	Do you personally have them or are they	
3	maintained s	somewhere else?	
4	A.	Not sure.	
5	Q.	If they were maintained somewhere, do you	
6	know where t	hey may be?	
7	Α.	Yes.	
8	Q.	Where may they be?	
9	Α.	It's either I have them or they're at the	
10	farm or one of the MMM representatives. I just I'm		
11	not sure.		
12	Q.	They exist somewhere in space.	
13	Α.	Yeah.	
14	Q.	Okay. Do you maintain any sort of an	
15	office or anything like that at Liberty Ridge?		
16	Α.	No.	
17	Q.	Turning to the next page, Page 91, where	
18	it talks about the personnel for approval for house		
19	parents and mentors, were you involved at all with		
20	the, I guess	, recruitment of house parents or mentors?	
21	А.	I'm not sure I'm following you. On which	
22	page again?		
23	Q.	It would be Page 91, and it's close to	
24	the top wher	e it says Line Item F. There's no header	
25	for boys hom	ne or anything. It seems like it's cut	

4	29	
1	off. Were you involved in the recruitment of any of	
2	the mentors or house parents?	
3	MS. WYNKOOP: Objection to form. You can	
4	answer.	
5	A. No.	
6	BY MS. FRANCHI:	
7	Q. Okay.	
8	A. Let me clarify that. You're asking if	
9	I did not ever ask any house parents or mentors to	
10	serve.	
11	Q. Okay. Was there any sort of a screening	
12	process or anything of that nature that you recall?	
13	A. Yes.	
14	Q. Were you involved in it at all?	
15	A. Yes.	
16	Q. Okay. Tell me a little bit about that.	
17	A. We would've had the screening side of	
18	it was that any individual that was asked to serve	
19	voluntary here were to serve would have been we	
20	would have ran it past their ministry, and then for	
21	mentors we would have had an interview with them and	
22	an orientation.	
23	Q. Were there any certain characteristics or	
24	traits that you were looking for in the mentors that	
25	would then serve at Liberty Ridge?	

1	30 A. God honoring, God fearing young men that		
2	were responsible.		
3	Q. And did the individual congregations		
4	present these mentors to you or when I say you, I		
5	mean the committee or did the committee identify		
6	these individuals on their own and go seek them out?		
7	A. Some of both.		
8	Q. Okay. Was there any type of background		
9	screening or anything to that extent when interviewing		
10	these mentors?		
11	A. No.		
12	Q. Okay. Were the mentors given any sort of		
13	training? I know you had mentioned an orientation, so		
14	I guess what I'm asking is what did that orientation		
14 15	I guess what I'm asking is what did that orientation include and what did it entail?		
15	include and what did it entail?		
15	include and what did it entail? A. I can't answer that in full because I'm		
15 16 17	include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details.		
15 16 17 18	<pre>include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details. Q. Okay.</pre>		
15 16 17 18 19	<pre>include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details. Q. Okay. A. But it was basically to give them what</pre>		
15 16 17 18 19 20	<pre>include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details. Q. Okay. A. But it was basically to give them what their responsibilities would be and also questioning</pre>		
15 16 17 18 19 20 21	<pre>include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details. Q. Okay. A. But it was basically to give them what their responsibilities would be and also questioning their life, their time with God, and their</pre>		
15 16 17 18 19 20 21 22	<pre>include and what did it entail? A. I can't answer that in full because I'm not sure I know the whole details. Q. Okay. A. But it was basically to give them what their responsibilities would be and also questioning their life, their time with God, and their relationship with God, and also their relationship to</pre>		

	21
1	members or siblings or anyone who is, I guess,
2	involved in any way with these mentors?
3	A. No.
4	Q. Okay. Did any of the mentors that you
5	know of have any specific training in dealing with or
6	handling high risk youth?
7	A. No.
8	Q. Okay. No training in dealing with, you
9	know, certain therapeutic aspects of children with
LO	mental health disorders or anything like that?
L1	A. Not more than living in a family with
L2	their brothers and sisters, yes.
L3	Q. Okay. So I'm going to skip a page, and
L 4	then we can go to Page 93. I believe these are the
L5	meeting minutes from May 4th of 2011. I'll take you
L6	down, boys home is Line Item 13 and specifically Item
L7	E which is close to the bottom of the page.
L8	The minutes here note that the boys home
L9	committee presented a proposal from Snyder Gates, LLC,
20	that would allow them to set up the shop to
21	manufacture fiberglass farm gates incorporating the
22	labor of the Liberty Farm residents.
23	Were you involved in the discussions with
24	Snyder Gates?
25	A. Yes.

1	Q. I guess skipping back a little bit, did	
2	the committee discuss bringing in third-party	
3	businesses to do work with Liberty Ridge?	
4	A. We were basically looking for something	
5	that where we would teach these boys vocational	
6	skills and also wanted to work with anybody, a	
7	company, that would also be interested in this kind of	
8	vocational skills because anything in this in this	
9	particular there's nothing in it for anybody to	
10	in other words, if we wanted to make a high profit, we	
11	wouldn't choose something like this.	
12	Q. So when you were talking to Snyder Gates,	
13	do you recall who it was specifically that you were	
14	speaking with from their company?	
15	A. Nolan Snyder and his mother, and I don't	
16	know what her name is.	
17	Q. Were these people who you were familiar	
18	with prior?	
19	A. No.	
20	Q. Okay. Did you seek Snyder Gates out or	
21	did they seek you out?	
22	A. They sought us out.	
23	Q. Okay. Do you recall what, if anything,	
24	they said when they did seek you or the committee out	
25	or, I guess, why?	

	33
1	A. Her son, Nolan, was part of this, and
2	they were just he was kind of looking to retire
3	from it or get less involved, and so he thought it
4	would be a good thing to teach these boys vocational
5	skills.
6	Q. Did they have any employees?
7	A. No.
8	Q. So, if you know, you had said that Nolan
9	was looking to retire, and they didn't have employees,
10	so was Nolan doing the work himself prior?
11	A. Yes.
12	Q. Okay. So the proposal that is mentioned
13	from Snyder Gates, would this be something that was in
14	writing or was this verbal?
15	A. Not sure.
16	Q. Okay. Do you recall if there was any
17	paperwork, contracts, anything like that between the
18	Mission, Liberty Ridge, or anything with Snyder
19	Gates?
20	A. No.
21	Q. So when it talks here about Snyder Gates
22	providing training and management, at that point a
23	decision would need to be made whether the farm would
24	purchase the manufacturing machinery or discontinue
25	the contract. So when it mentions the contract, you

	2.4
1	don't remember if it was written down or verbal?
2	A. The only thing I remember is there was
3	I guess you could call it a contract. There was what
4	the working relationship was going to be between the
5	two of us.
6	Q. Okay.
7	A. But I don't I don't know where that
8	contract is.
9	Q. Do you recall or do you have any
LO	knowledge of where Snyder Gates used to build their
L1	products before moving over to Liberty Ridge?
L2	A. It was in Snyder County, the next county
L3	over.
L 4	Q. Are you aware of whether they relocated
L5	all of their equipment to Liberty Ridge? Just some of
L6	it? I guess was it the whole operation or just a part
L 7	of it?
L8	A. I'm not sure.
L9	Q. Okay. Was there any discussion with
20	Nolan Snyder or his mother about paying the children
21	for their work?
22	A. Not that I can recall.
23	Q. So I want to jump around a bit. Going
24	back to Team Boys Ranch in Missouri, do you recall
25	ever encountering an individual named Kyle Hoover when

			35	
1	1 you were there?		55	
2	2 A. I remember see	ing him, but I don't know		
3	3 that I had any contact with	him while we were there.		
4	4 Q. Okay. Do you	recall whether you ever		
5	5 encountered Kyle Hoover bac	k up in Pennsylvania when		
6	6 Liberty Ridge was being bui	Liberty Ridge was being built?		
7	7 A. Yes.			
8	8 Q. Okay. Tell me	about that.		
9	9 A. He went to	his mother went to one of		
LO	.0 our churches there in our d	istrict, and Kyle would		
L1	.1 have been at our place some			
L2	.2 Q. When Liberty R	idge was first being		
L3	.3 created, was it just an emp	ty farm plot or were ther	e	
L 4	.4 any structures on it?			
L5	.5 A. The chicken ho	uses were there.		
L6	Q. No residence?			
L7	.7 A. No.			
L8	.8 Q. Who			
L9	A. The farmhouse,	but I mean but no yea	h.	
20	Q. And I know that	t Liberty Ridge has kind	of	
21	expanded since 2011. When	the property was first		
22	22 purchased and Liberty Ridge	purchased and Liberty Ridge was first being opened, so		
23	there was a farmhouse and t	hen you said the chicken		
24	house. Were there any other	r structures?		
25	A. A small shop.			

1	Q. Okay. Were any other structures built, I
2	guess, after the purchase, but before the Liberty
3	Ridge boys home was opened?
4	A. No.
5	Q. Were there any other renovations or work
6	done to the property in preparation for there being
7	residents at Liberty Ridge?
8	A. Yes.
9	Q. Tell me about that work a little bit.
10	A. There was preparation made for the house
11	parents. A little remodeling in the house for that
12	and a remodeling of the chicken houses.
13	Q. Okay. Since that time, tell me a little
14	bit about kind of how the property has changed and
15	developed since, I guess, its inception in 2011 to the
16	present?
17	A. We expanded the main house to make some
18	nice sleeping quarters and a nice kitchen to provide
19	for these boys. We added on to the small shop one
20	time, and we also added another shop beside that.
21	Again, to give more place for vocational skills,
22	woodworking for the boys. And we added a third house
23	for the administration.
24	Q. Was there ever a sawmill or anything like
25	

	27
1	A. No. We never had a sawmill.
2	Q. Okay. So once Liberty Ridge kind of
3	moved from being a concept to being an actual business
4	and a home, whose decision was it to put your name on
5	the registration paperwork for Liberty Ridge?
6	A. I was asked by the committee to get the
7	legal work done.
8	Q. Okay. What kind of work did you do to
9	prepare the paperwork? Was it just the fictitious
LO	name or were there other documents involved?
L1	A. Just the fictitious name, and I asked my
L2	accountant to do that, so.
L3	Q. Okay. Who's your accountant?
L4	A. Martin Accounting.
L5	Q. Do you still use them?
L6	A. Yes.
L7	Q. Where are they out of?
L8	A. Myerstown.
L9	Q. I'm going to turn you to closer to the
20	beginning. It will be PLS-56. It goes PLS first and
21	then LRF after that, so it would be the first set of
22	documents. I want to make sure that you're done
23	looking for it before I start asking questions. Okay.
24	Mr. Martin, do you recognize this document?
25	A. Yes.

		38
1	Q.	And then I'll just have you take a look
2	at the back	half of that Page 57. Is that the
3	backside of	the same form that you recall?
4	Α.	Not sure.
5	Q.	So looking at the first page, Page 56,
6	where it say	s Nelson Martin, 152 Flanagan Road,
7	Richland, PA	, 17087, what whose address is that?
8	Is that your	personal address?
9	Α.	That's my personal address. That's where
10	I lived.	
11	Q.	Okay. Is that where you live now?
12	Α.	No.
13	Q.	Okay. So different location. This
14	wouldn't be	the Myerstown address you've been talking
15	about?	
16	Α.	Yes. It's just it is actually my
17	farm.	
18	Q.	Okay.
19	Α.	And it's still my personal I mean it's
20	still my pro	perty.
21	Q.	Okay.
22	Α.	But it's just a mile and a half down the
23	road.	
24	Q.	Gotcha. Okay.
25	Α.	That's where I milked cows all my life.

	39
1	Not all my life, but.
2	Q. Most of it?
3	A. Yeah.
4	Q. So you said it was at the direction of
5	the Mission Board that it be put in your name?
6	A. Well, it was actually put into Liberty
7	Ridge Farms name, the fictitious name. I was just the
8	one that made the applied for the through my
9	accountant for the fictitious name.
10	Q. Okay. Where it says on Number 2
11	church-operated home for boys, what exactly is it
12	referring to by church operated? Is that referring
13	to the Mission or just the general under the kind of
14	guidance of the Eastern Pennsylvania Mennonite
15	Church?
16	A. Not sure why they have used that term.
17	Q. Okay. Do you recall if you filled this
18	form out or if somebody else did?
19	A. Martin Accounting did as far as I know.
20	Q. And Number 3 where it says 583 Varner
21	Lane, McAlisterville, PA, 17049, is that the physical
22	address for Liberty Ridge?
23	A. Yes.
24	Q. And that would be the property owned by
25	the Mission?

	40
1	A. Yes.
2	Q. So I'll turn you to Page 57 now. I know
3	you said you weren't sure if it was the back of the
4	form, but I'll take you down to the bottom where it
5	has a signature. Is that your signature?
6	A. Yes.
7	MS. FRANCHI: Can we take a break and go
8	off the record?
9	THE VIDEOGRAPHER: Off camera time is
10	9:52.
11	(Recess)
12	THE VIDEOGRAPHER: On camera time is
13	10:00. Please continue.
14	BY MS. FRANCHI:
15	Q. Okay. Before we took a break, I believe
16	we had just finished looking at the application for
17	registration of fictitious name. I'm going to have
18	you turn just a couple of pages forward to Page
19	PLS-62. Just let me know when you get there.
20	A. I'm there.
21	Q. Okay. So this here is from the
22	Pennsylvania Corporations website. When it lists
23	business entity details under officers, the name that
24	I see here is name, Nelson Martin. Title, owner.
25	So if you can tell me a little bit about

	41
1	what your involvement is then with the actual business
2	entity of Liberty Ridge.
3	A. There is no involvement.
4	Q. Okay. So when it lists you as the owner,
5	is there anybody else that acts as the owner or
6	anything to that extent? I guess what I'm getting at
7	is where it lists you as the owner, but I know that
8	you said that you aren't the owner, explain why.
9	A. I'm not the owner because I never I
10	never signed any of the the only thing I signed for
11	was to get the fictitious name which we talked about
12	earlier. I'm not sure why the state put owner in
13	there.
14	Q. Okay. To your knowledge, Liberty Ridge
15	is only a fictitious name; correct?
16	A. Yes.
17	Q. Is there any other entity that Liberty
18	Ridge could be like an LLC or a corporation or, to
19	your knowledge, it is only just a fictitious name?
20	A. It's just a fictitious name.
21	Q. Okay. Who holds the bank accounts for
22	Liberty Ridge?
23	A. I do as the treasurer.
24	Q. Okay. Is there anybody else that can
25	access them like as a signatory or an alternate user?

1	Α.	Yes.
2	Q.	Who?
3	~	Gerald Nolt.
4	Q.	And pardon me. I know I spoke with him,
5	~	remember. What is his position with
6	Liberty Ridge	-
7		Assistant treasurer.
8		Okay. And were you the treasurer when
9	Liberty Ridge	e first opened?
10	Α.	Yes.
11	Q.	Have you been the entire time?
12	A.	Yes.
13	Q.	Okay. So the Liberty Ridge bank
14	accounts, are	e they under then would they be under
15	your Social	Security number or is there like an EIN or
16	a tax number	that they're under?
17	Α.	There's an EIN number.
18	Q.	There is, okay. I'm assuming you don't
19	know that of:	f the top of your head?
20	A.	I know it starts with 27, but that's all.
21	Q.	You got a few.
22	A.	Yeah.
23	Q.	Is there only one bank account held by
24	Liberty Ridge	e?
25	Α.	Yes.

		43
1	Q.	Okay. And where is that bank account
2	held?	
3	A.	Ephrata National Bank. It started out
4	under Frederi	icksburg National Bank.
5	Q.	And then moved?
6	A.	(Nodding head.)
7	Q.	Do you remember when that move happened?
8	Α.	2000 I can tell you real quick.
9	Q.	I recall that I saw in the ledgers there
10	was a notation	on about a new checking account.
11	Α.	Yes. I think it was 2013, but I'm not a
12	hundred perce	ent sure on that, but it's in your ledger,
13	yes.	
14	Q.	Okay. So that would have just been kind
15	of migrating	everything over?
16	Α.	Correct, and you can see the dollar
17	amounts came	straight over.
18	Q.	What was the reason for the change?
19	Α.	Convenience. Ephrata National Bank put a
20	branch in Mye	erstown half a mile from my house.
21	Q.	That makes sense. So you said you have
22	an accountant	Martin Accounting?
23	Α.	Yes.
24	Q.	Did they also do the taxes related to
25	Liberty Ridge	e?

	44
1	A. We file no taxes because we're a 501(c).
2	Q. It is a 501(c), okay. Who filed the
3	501(c) paperwork?
4	A. Martin Accounting I'm pretty sure, but
5	I'd have to look.
6	MS. FRANCHI: Okay. Can we pause for
7	just a second and go off the record?
8	THE VIDEOGRAPHER: Off camera time is
9	10:05.
10	(Discussion held off the record.)
11	THE VIDEOGRAPHER: On camera time is
12	10:06.
13	BY MS. FRANCHI:
14	Q. Okay. So you had said it's your belief
15	that Liberty Ridge is filed as a 501(c)(3)?
16	A. Yes.
17	Q. Okay. So just to be clear, the only
18	documents that I have received in discovery and that
19	we have talked about is the registration of the
20	fictitious name and the business entity details that
21	Liberty Ridge Farm is a fictitious name with you as
22	the owner, but you are indicating there may be other
23	paperwork that you believe?
24	A. I don't know.
25	Q. Okay. Is there anybody that you believe

1	may know?
2	A. I can't think of anybody. Well, let me
3	back up. We could ask Martin Accounting.
4	Q. Okay. So as it relates to your personal
5	tax returns, do you make any claims to Liberty Ridge
6	on your tax returns personally?
7	A. No.
8	Q. Okay. Are you involved in the preparing
9	of the tax returns with your accountant for Liberty
10	Ridge? Like are you the one who submits
11	documentation?
12	A. Yes.
13	Q. Okay. So looking at the actual opening
14	of Liberty Ridge, do you recall when Liberty Ridge
15	first accepted its first resident which I believe was
16	Mr. Cross?
17	A. November of 2011 is as close as I can
18	get.
19	Q. Okay. So Liberty Ridge had been
20	established as a business or at least in name in
21	February of 2011?
22	A. Yes.
23	Q. And then the first resident didn't come
24	in until later on that year?
25	A. Yes.

	1
1	Q. Do you recall what was done during that
2	time before the first resident came in but after the
3	entity was established?
4	A. Preparation, remodel, and chicken
5	contract.
6	Q. Okay. So all of the work that you were
7	talking about before was during those few months?
8	A. Yes.
9	Q. Okay. So what is the current, I guess,
10	leadership structure of Liberty Ridge kind of from the
11	top down?
12	A. You're asking for current as of 2022?
13	Q. Yes, and then we'll go backwards from
L4	there.
15	A. It is the committee. Then it comes down
16	to a contact committee. And then from there it goes
17	down the contact committee is responsible for
18	administrative people and then mentors and residents.
19	Q. So I know we had mentioned that's the
20	structure now. Was the structure different back when
21	Liberty Ridge first opened?
22	A. Yes.
23	Q. What was it or I guess how was it
24	structured in 2011 when it first opened and accepted
25	its first resident?

		4.5
1	Α.	It was basically structured by the
2	committee.	
3	Q.	Okay.
4	Α.	And we just operated as a committee.
5	Q.	Okay. Is the committee I think we've
6	actually kin	d of used the term committee and then
7	board kind o	f interchangeably, but does the committee
8	act as a tra	ditional board of directors or is it
9	still I g	uess what is the structure of the
10	committee or	the board since those terms have kind of
11	been used bo	th ways?
12	Α.	It operates more as a board than actually
13	a committee.	
14	Q.	Okay. With the traditional like
15	president, v	ice president, secretary, assistant
16	secretary ty	pe structure?
17	Α.	Yeah. Basically a chairman.
18	Q.	Okay.
19	Α.	Assistant chairman and on down.
20	Q.	Okay. Is there any oversight to the
21	committee of	Liberty Ridge? Like is there anybody
22	that oversee	s the committee like the Mission or any
23	other entity	?
24	Α.	Not necessarily. The reports would be
25	given to the	Mission.

		48
1	Q.	How often?
2	Α.	Once a year.
3	Q.	Okay. What types
4	Α.	Or once a year for the financial, and
5	then wheneve	r we need new house parents or mentors
6	that gets re	corded.
7	Q.	Okay. So is it safe to say that it
8	goes the	reporting is generally from Liberty Ridge
9	to the Missi	on, but the Mission doesn't necessarily
10	tell Liberty	Ridge what to do or is that not correct?
11	Α.	That would be correct.
12	Q.	Is there ever a time in your experience
13	that the Mis	sion has given direction to Liberty Ridge
14	or asked the	committee to do any certain things?
15	А.	I don't recall.
16	Q.	Okay. Are you aware of whether any of
17	the Mission	Board members go to the physical property
18	of Liberty R	idge either to observe or to participate
19	in any way?	
20	А.	Yes.
21	Q.	Who that you know of has done that?
22	Α.	Jacob Brubaker.
23	Q.	Okay. And he is with the Mission Board?
24	A.	Yes.
25	Q.	Okay. Is this the same Mr. Brubaker

	49
1	that's on Liberty Ridge committee?
2	A. Yes.
3	Q. Okay. So it's the same person on both?
4	A. Yes.
5	Q. Okay. Are you aware of whether
6	Mr. Brubaker is making other reports to the Mission
7	about Liberty Ridge during their own meetings? I
8	guess not during the once a year reporting time.
9	A. Jacob, but he would take names for
10	mentors or administrators for approval to the Mission
11	Board.
12	Q. Okay. When Mr. Brubaker would visit the
13	property of Liberty Ridge, are you aware of whether he
14	would give any directions or tell anybody what to do
15	when he was on the property?
16	A. Very little.
17	Q. Was it more just passive observation?
18	A. Yes.
19	Q. Okay. Do you know if Mr. Brubaker has
20	any business interest with anything going on at
21	Liberty Ridge?
22	A. No.
23	Q. Okay. Does the Liberty Ridge committee
24	have any guiding documents or bylaws or any type of
25	governing documents that you're aware of?

1	7)	Vo.5
1	Α.	Yes.
2	Q.	Okay. Do you know what these documents
3	are?	
4	Α.	It's in the hand what our handbook
5	says.	
6	Q.	Just in the policy book?
7	Α.	Policy book.
8	Q.	Okay. My understanding that the current
9	policy book	that was provided in discovery was not the
10	policy book	that was in place back when Liberty Ridge
11	began in 201	1, is that correct?
12	Α.	Correct.
13	Q.	Okay. Do you recall when the new set of
14	policies wer	e made?
15	Α.	Somewhere between 2014 and '16 maybe.
16	Q.	Okay. Are you aware of whether there is
17	a copy of th	e old policies anywhere in existence?
18	Α.	No.
19	Q.	Okay. So you wouldn't have them?
20	Α.	Not that I know of.
21	Q.	Okay. What are your duties and
22	responsibili	ties when you're acting as the treasurer
23	for Liberty	Ridge?
24	Α.	Pay the bills.
25	Q.	Can you expand on that a little bit?

		F1
1	Α.	Yeah. No. I I'm responsible for
2	the yeah,	basically the income and see that the
3	bills get pa	id.
4	Q.	Are you the individual who is involved
5	with organiz	ing the different businesses that either
6	come in or g	o out of Liberty Ridge or, I guess,
7	generally do	business with Liberty Ridge?
8	Α.	I'm involved, but it's always a committee
9	decision.	
LO	Q.	Okay. Are you kind of like the point
L1	person of co	ntact?
L2	Α.	Yes.
L3	Q.	Okay. Do you know if Liberty Ridge is
L 4	affiliated s	pecifically with any Eastern Pennsylvania
L5	Mennonite co	ngregation?
L6	Α.	No.
L7	Q.	Okay. Did you receive any specific
L8	training pri	or to your work with Liberty Ridge
L9	relating to	either dealing with at risk teens or those
20	with mental	health disorders or anything like that?
21	Α.	No.
22	Q.	When creating the programing for Liberty
23	Ridge, are y	ou aware of whether the committee
24	consulted wi	th any Department of Labor regulations or
25	anything to	that extent as it relates to the amount of

	52
1	hours worked by the boys or the type of work being
2	done?
3	A. No.
4	Q. Do you receive any compensation from
5	Liberty Ridge for your work?
6	A. Not from a labor standpoint because it's
7	all voluntary, but I have used my equipment sometimes
8	for remodel and got paid for the fuel that it used,
9	but nothing for time on the machinery or anything like
LO	that.
L1	Q. Okay. So you're not compensated for
L 2	being the treasurer?
L3	A. No.
L 4	Q. Are any of the committee members
L5	compensated?
L6	A. No. We're all voluntary.
L 7	Q. About how many hours of your time, I
L8	guess, a week, to the extent that you can estimate,
L9	are you involved in your work as treasurer for Liberty
20	Ridge?
21	A. As treasurer, two.
22	Q. Is that about average for any of the
23	committee members for how much time they spend working
24	on Liberty Ridge projects or just involvement in the
25	committee?

		53
1	Α.	Clarify your question just a little bit.
2	When you say	involvement, is this just as a treasurer
3	or is this i	nvolvement as a whole?
4	Q.	As a committee member.
5	Α.	As a committee member. As a committee
6	member, it's	more like ten hours a week.
7	Q.	Oh, okay. Is it more than everybody
8	else?	
9	Α.	Not necessarily. We each have our we
LO	each have ou	r place that we fill.
L1	Q.	Okay.
	Α.	And it's all voluntary.
L2	21.	
L2 L 3		What are the some of the other roles
	Q.	-
L3 L4	Q. that are fil	What are the some of the other roles
L3	Q. that are fil like everybo	What are the some of the other roles led by the committee members? It sounds
L3 L4 L5	Q. that are fil like everybo	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of
L3 L4 L5 L6	Q. that are fil like everybo what they do A.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee.
L3 L4 L5 L6	Q. that are fil like everybo what they do A.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that
L3 L4 L5 L6 L7	Q. that are fil like everybo what they do A. there's hous	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that
L3 L4 L5 L6 L7 L8	Q. that are fill like everyboom what they do A. there's hous of thing.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that e parents there and mentors and that kind So it's a lot of just organizing a lot of
L3 L4 L5 L6 L7 L8	Q. that are fill like everybook what they do A. there's hous of thing. Q.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that e parents there and mentors and that kind So it's a lot of just organizing a lot of
L3 L4 L5 L6 L7 L8 L9	that are fill like everyboom what they do A. there's hous of thing. Q. the moving particles.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that e parents there and mentors and that kind So it's a lot of just organizing a lot of arts?
L3 L4 L5 L6 L7 L8 L9 20	that are fill like everyboom what they do A. there's hous of thing. Q. the moving part A. Q.	What are the some of the other roles led by the committee members? It sounds dy has kind of their own little niche of on the committee. So for some of them it's making sure that e parents there and mentors and that kind So it's a lot of just organizing a lot of arts? Organizing, yes.

			F.4.
1	А	. •	Yes.
2	Q		Okay. And I think during part of that
3	time, y	our pa	arents were still operating their farm
4	until y	ou sai	id about 2014?
5	А	• •	Yes, yes.
6	Q		Okay. Around 2014, did when your
7	parents	passe	ed, did the company get sold or did it
8	just ce	ase to	exist?
9	А	• •	My brother and I would have took over the
10	milk pr	ocessi	ing plant.
11	Q		Okay. Did you take it over under the
12	name of	Dutch	n-Way or did it kind of get absorbed into
13	your fa	rm?	
14	А	•	Dutch-Way Farms.
15	Q	! •	Okay. So is Dutch-Way Farms still being
16	operate	d?	
17	A	•	No.
18	Q	! •	Okay. How long did that go on then where
19	you wer	e oper	rating the dairy out of Dutch-Way with
20	your br	other	?
21	А	•	I'm not sure how many years it was, and
22	I'm not	sure	which year we took it over.
23	Q	•	Okay.
24	А	. •	But it went for a number of years.
25	Q	! •	Okay. So it would have been after 2014?

		FF
1	Α.	Yes.
2	Q.	And then if you could approximate when
3	about or wit	hin a few years of when you ceased that
4	work?	
5	Α.	2019.
6	Q.	Okay. So a few years ago?
7	Α.	(Nodding head.)
8	Q.	Okay. From 2011 to 2014, I guess we'll
9	just keep re	ferring kind of to the time period
10	encompassed	in this case excuse me, give me one
11	moment I	am assuming you physically were on the
12	Liberty Ridg	e property during that time?
13	Α.	Yes.
14	Q.	About how often?
15	A.	Average of once a week.
16	Q.	For what purpose?
17	A.	To for staff meetings. And also when
18	we were doin	g remodel and stuff, I would help with
19	some of that	•
20	Q.	Okay. Did you have any interaction with
21	the resident	s during that time?
22	Α.	Yes.
23	Q.	Were you giving them any direction or was
24	it just more	casual interaction?
25	A.	It was more casual. But if we were

	56
1	remodeling something and I needed a board over there,
2	yeah, go pick up the board and bring it here.
3	Q. Were there any times during your visits
4	to Liberty Ridge during the time period that we're
5	talking about did you ever give any of the residents
6	direction as to, you know, go work on this task or on
7	this job, anything to that extent?
8	A. Yes.
9	Q. Occasionally?
10	A. Occasionally.
11	Q. When it came to kind of coordinating the
12	different I want to say the different jobs on
13	Liberty Ridge, did that kind of fall under your
14	umbrella?
15	A. I was responsible for the outside of the
16	house vocational skills.
17	Q. Okay. When Liberty Ridge first opened in
18	2011, to your knowledge, off the top of your head, how
19	many different businesses were associated with the
20	work of the residents?
21	I know we had talked about the gate
22	company. But if you can recall, how many other
23	businesses were kind of under the header of either
24	receiving products from Liberty Ridge or having the
25	boys do work for them?

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1		MS. WYNKOOP: Objection to form.
2	Α.	Basically the chicken work.
3	BY MS. FRANC	HI:
4	Q.	Okay. Do you recall the name of the
5	company invo	lved with the chicken house and the
6	chicken work	?
7	Α.	Clark's Feed.
8	Q.	Tell me a little bit about how Clark's
9	Feed got inv	olved with Liberty Ridge.
10	Α.	Basically there were there were houses
11	there, and w	e were looking for somebody to put the
12	birds there	and give the teach the boys how to take
13	care of anim	als and work together as a team, so yeah,
14	they were wi	lling to do that.
15	Q.	Okay. Do you know where Clark's Feed is
16	based out of	?
17	Α.	It's north of there a little bit.
18	Q.	So it's local enough?
19	Α.	It's local, yeah.
20	Q.	Are you aware of how big the company is?
21	Is it one ma	n like the gate company or is it a bigger
22	operation?	
23	Α.	It's a bigger operation.
24	Q.	Do they have paid employees?
25	Α.	Yes.
	I	

	58
1	Q. Okay. So I guess what benefit was
2	Clark's Feed getting from the Liberty Ridge work?
3	MS. WYNKOOP: Objection to form. You can
4	answer.
5	A. Basically, I guess I would say birds to
6	market.
7	BY MS. FRANCHI:
8	Q. Okay. Were I know there is all sorts
9	of different steps in processing chickens. What work
LO	was being done then at Liberty Ridge? Like were the
L1	birds being slaughtered then and the slaughtered birds
L2	were going to Clark's or was it just the live birds
L3	that were going out?
L4	A. It was the live birds. They come as
L5	little peeps, and we raise them up until it was
L6	just the live birds.
L7	Q. Okay. Is this the only place that
L8	Clark's Feed had their live birds being raised that
L9	you know of?
20	A. No.
21	Q. Okay. So they had other locations?
22	A. Yes.
23	Q. Okay. About how many birds were there on
24	the property at least from 2011 to 2014 at any given
25	time?

1	Α.	30,000.
2	Q.	Okay. How big was the chicken barn?
3	Α.	300 feet basically it's 600 feet. It
4	was a double	-
5	Q.	Okay. So it was pretty substantial?
6	Α.	Yeah.
7	Q.	Okay.
8	Α.	Small in today's terms.
9	Q.	Substantial for one piece of property.
10	So was this :	relationship with Clark's Feed, was there
11	a written co	ntract?
12	Α.	I think so, but I could not locate it.
13	Q.	Okay. How often would a representative
14	from Clark's	Feed be on the Liberty Ridge property?
15	A.	One one one time a week. Sometimes
16	it went two	every other week.
17	Q.	Okay. And what would they do when they
18	were on the	property?
19	A.	They would just come evaluate how we were
20	taking care	of the birds and
21	Q.	Did they ever come to the property then
22	to remove any	y of the birds?
23	Α.	Yes.
24	Q.	Okay. Were they the only ones who came
25	to remove or	bring birds in?

	60
1	A. Whoever they assigned.
2	Q. Okay. So it wasn't the duties of you or
3	anybody at Liberty Ridge
4	A. No, no.
5	Q to bring them off the property?
6	A. No.
7	Q. Okay. And you had said that they have
8	Clark's Feed has other locations where they would do
9	the same?
10	A. Yes.
11	Q. Okay. And they were being run, though,
12	by paid employees?
13	A. Farmers.
14	Q. Okay. Was there any money going back and
15	forth between Liberty Ridge and Clark's Feed either
16	for rent or payment for services otherwise?
17	A. Not other than that, no.
18	Q. Okay. Were they paying rent for use of
19	the chicken house?
20	A. No.
21	Q. Okay. I'm assuming then once Clark's
22	Feed the chickens would be raised to the
23	appropriate age, they would remove them and then sell
24	them or, I guess, process them elsewhere?
25	A. Yes. We had nothing to say what happened

1	61 from that point. They would yeah. They would just
2	give us so much a pound.
3	Q. Okay. When you say give us, it would be
4	back to Liberty Ridge?
5	A. Liberty Ridge.
6	Q. Okay. As it relates to Snyder Gates, I
7	know we talked about them a little bit, but I have a
8	few more follow-up questions, and then we'll kind of
9	move on from that.
LO	Along the same lines as what we were just
L1	talking about with Clark's, so tell me where the work
L2	was being done for Snyder Gates on Liberty Ridge
L3	property?
L4	A. In the small shop.
L5	Q. Okay. And when you say the small shop,
L6	how small are we talking?
L7	A. 25 by 40 I think it was.
L8	Q. Okay. Tell me a little bit about the
L9	arrangement, I guess starting with where the materials
20	came from and then kind of moving forward to a
21	finished product.
22	A. Materials came from Nolan Snyder. He
23	made sure they were there.
24	Q. Okay.
25	A. And then as a team, we would paint the

		62
1	rail with a	machine. It just slit you just pushed
2	it through t	he machine. It did all its own painting.
3	Q.	Okay.
4	Α.	And assembled them.
5	Q.	Okay. What material were the gates made
6	out of?	
7	Α.	Like a fiberglass rail.
8	Q.	Okay. So this wasn't associated with
9	like the cut	ting of wood. They weren't wooden gates
LO	that were be	ing built?
L1	Α.	No.
L2	Q.	Okay. So
L3	Α.	And not metal gates either. A lot of
L4	people think	metal gates, but no welding or anything
L5	like that.	
L6	Q.	Okay. So I guess kind of start from the
L7	beginning of	construction of these gates. You said
L8	you could pu	t them through a machine that will get
L9	painted. Wh	at else did the boys do in constructing
20	the gates?	
21	Α.	Basically what the boys would've help do
22	is just hand	le the rails. Like put them on a table so
23	they could g	o through the paint machine and take them
24	off the othe	er end and put them on a rack.
25	Q.	Okay.

1	Α.	And then lay the rails in a jig to
2	populate them	m together, and that the mentors always
3	did.	
4	Q.	Okay. How often was Mr. Snyder on the
5	property?	
6	Α.	I'm not sure.
7	Q.	Okay. Did you ever see him there?
8	A.	Yes.
9	Q.	Was he ever there supervising or would he
10	just come in	to move products around?
11	A.	In the beginning he was there to
12	supervise to	help show how it's done.
13	Q.	Okay.
14	A.	But mostly to move product around.
15	Q.	Was there any sort of like sales quota or
16	anything like	e that for how many gates needed to be
17	built?	
18	A.	No.
19	Q.	Okay. After the gates were built, what
20	happened to	them?
21	A.	Nolan would pick them up and wherever he
22	had them solo	d.
23	Q.	Okay. You weren't involved in the sale?
24	A.	No. Only only the sale would have
25	been if it wo	ould have been to somebody in our church

1	group that wa	nted a gate.
2	Q.	Okay. Were any of those gates then used
3	on Liberty Ri	dge property?
4	Α.	Yes.
5	Q.	Okay. Did Liberty Ridge buy the gates
6	from Snyder o	r were they, I guess, given or
7	Α.	I don't remember.
8	Q.	Okay. And after Mr. Snyder sold these
9	however many	gates there were, are you aware of how
10	the profit wa	s split or did he retain all the
11	profits?	
12	Α.	He retained all the profits. He just
13	gave us a fee	to assemble.
14	Q.	What was that fee?
15	Α.	I forget. I have no idea anymore.
16	Q.	There was a fee?
17	Α.	Yeah. It was so much a gate.
18	Q.	Okay. And was it paid directly to
19	Liberty Ridge	?
20	Α.	Yes.
21	Q.	Okay. How long did Snyder Gates work out
22	of Liberty Ri	dge, if you remember?
23	Α.	Two years.
24	Q.	Okay. So sometime within the 2011 to
25	2014 time?	

1	Α.	Yeah.
2	Q.	Okay. What about Clark's?
3	A.	So 2020 or somewhere around there.
4	Q.	So it would have been from 2011 to 2020?
5	Α.	Yeah.
6	Q.	Okay. Were there any other companies
7	~	ome into Liberty Ridge for the purpose of
8	just the chic	
9	Α.	Not nothing that we were responsible
10	for.	
11	Q.	Okay. Did to the extent that you are
12	aware or not	iced, did Clark's ever send any other
13	trucks or any	y other companies to Liberty Ridge to pick
14	up the chicke	ens or was that outside of your
15	wheelhouse?	
16	Α.	That we had no say in that.
17	Q.	Are there any other livestock that were
18	on the Liber	ty Ridge property from 2011 to 2014?
19	A.	Just for household. Just for the family.
20	Q.	Okay. What were they?
21	A.	Pigs and beef.
22	Q.	About how many, if you know?
23	A.	One or two beef a year and three or four
24	pigs a year.	
25	Q.	And this was purely for use within the

		66
1	home?	
2	Α.	Yes.
3	Q.	Okay. Were they sent out to slaughter
4	somewhere el	se?
5	Α.	Yes.
6	Q.	Where was that, if you know?
7	Α.	It was different places. I tried to use
8	local.	
9	Q.	Okay. And were the boys responsible for
10	taking care	of the cattle and the pigs?
11	Α.	Yes.
12	Q.	Was it purely for beef? There were no
13	dairy?	
14	Α.	No dairy.
15	Q.	Okay. Are you aware of any other
16	businesses d	uring those few years that were operating
17	out of Liber	ty Ridge at least off the top of your
18	head?	
19	Α.	No.
20	Q.	Okay. What is your knowledge about the
21	Department c	f Transportation registration out of
22	Liberty Ridg	e?
23	Α.	We would have had some vehicles under
24	in the Liber	ty Ridge name.
25	Q.	Okay. Do you recall at least from 2011

	67
1	to 2014 what those vehicles would be?
2	A. A van and a pickup.
3	Q. Okay. And was that just for use on the
4	farm?
5	A. On the farm, yes.
6	Q. Was there any transportation of products
7	back in and out of Liberty Ridge from any vehicles
8	registered with the D.O.T.?
9	A. Not that Liberty Ridge was responsible
10	for. And, again, to clarify that, the ones that came
11	in to pick up the live birds, I don't know what all
12	that was their that was their problem.
13	Q. Okay.
14	A. But nothing nothing that we were
15	responsible for.
16	Q. Okay. So I'm going to throw a few names
17	of companies out there that have kind of showed up
18	around this case. And to the extent that you
19	remember them, you know, let me know. If you don't,
20	we'll go from there. Are you aware of the Sensenig
21	Chair Shop?
22	A. Yes.
23	Q. Am I saying that name wrong?
24	A. No. Sensenig Chair Shop.
25	Q. Okay. What is their involvement with

	60
1	Liberty Ridge either current or past?
2	A. They would have they would have made
3	some furniture that they donated to the farm for the
4	house, bedroom furniture.
5	Q. Was any of that furniture ever sold for
6	profit elsewhere?
7	A. No.
8	Q. So that was all internal?
9	A. Yes.
10	Q. Okay. Was there any money exchanged
11	between Liberty Ridge and the chair shop that you
12	recall?
13	A. Yes, yes. In that time frame they may
14	have done a little bit of firewood as well.
15	Q. Okay. And what do you mean by that?
16	A. It's we would split logs and make some
17	firewood.
18	Q. Okay. And how is the chair shop involved
19	in the firewood?
20	A. They're local there, so they would sell
21	it at their store.
22	Q. Okay. Did they retain any of the
23	profits?
24	A. They just paid us so much
25	Q. Okay.

1	A for it, and what they did after that
2	that's
3	Q. Okay.
4	A. I mean they paid Liberty Ridge so much
5	for it, not us. Liberty Ridge.
6	Q. Understood. What about Wengerd Pallet
7	Company? What was their involvement?
8	A. They were not involved in that time
9	frame.
10	Q. They weren't? Okay. When did they
11	become involved?
12	A. It would have been you say 2011 to
13	'13?
14	Q. We've been encompassing 2014. There
15	isn't a specific date within that time, but we'll just
16	say until the end of 2014.
17	A. They might have they might have
18	started the middle of '14.
19	Q. Okay.
20	A. Assembling got rid of the gates and
21	started assembling pallets.
22	Q. So it kind of took the place in the shop
23	of the gates?
24	A. Correct.
25	Q. Okay. Tell me a little bit about the

1	arrangement	between the pallet company and Liberty 70
2	Ridge.	
3	Α.	We were just assembling pallets for them,
4	and they wou	ld give us so much a skid.
5	Q.	Okay.
6	Α.	A pallet.
7	Q.	Did the pallet company provide the
8	materials?	
9	Α.	Yes.
10	Q.	Okay. Where is Wengerd Pallet Company
11	based out of	, if you know?
12	Α.	McAlisterville, just five miles from
13	there.	
14	Q.	Somewhere local?
15	Α.	Local.
16	Q.	Okay. Are they a large operation?
17	Α.	A few employees.
18	Q.	Okay. So they do have some paid
19	employees?	
20	Α.	Oh, yes.
21	Q.	Okay. Who was your point of contact with
22	them?	
23	Α.	Wayne Wengerd.
24	Q.	Okay. And he would be the owner?
25	Α.	Yes.

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1	Q. Were they in existence, to your
2	knowledge, as a company before they came to Liberty
3	Ridge?
4	A. Yes.
5	Q. Okay. So I'm assuming, and you can
6	correct me if I'm wrong, that they had paid employees
7	building the pallets and selling them elsewhere before
8	some of it was
9	A. Yes.
10	Q. Okay. Was there any sort of sales quota
11	or anything that was required to be done at Liberty
12	Ridge?
13	A. No, no. It was just he was an Amish
14	minister, and his company is an Amish a lot of
15	Amish people, and he just he wanted to help us
16	with these boys on vocational calls vocational
17	skills.
18	MS. FRANCHI: Okay. Let's pause for a
19	second.
20	THE VIDEOGRAPHER: Off camera time is
21	10:41.
22	(Recess)
23	THE VIDEOGRAPHER: This begins Media
24	Number 2 in today's deposition. The time is now
25	10:49.

1	72 BY MS. FRANCHI:
2	Q. All right. So we were just talking about
3	Wengerd Pallet Company. You had said that you believe
4	they may have started working with Liberty Ridge
5	sometime maybe in 2014, give or take?
6	A. Yes.
7	Q. Okay. So, like I said, there's kind of a
8	list of businesses that names have come up so just
9	kind of go through each of them, and then you can let
10	me know the same kind of information.
11	So are you familiar with a company either
12	called Jones Lumber or involving an individual named
13	Jason Jones?
14	A. Yes.
15	Q. Was this somebody who had any affiliation
16	with Liberty Ridge?
17	A. No.
18	Q. Okay. Are you aware of whether any
19	residents from Liberty Ridge were brought to the Jones
20	Lumber property to do any work?
21	A. Yes.
22	Q. Okay. Do you recall when that was?
23	A. End of 2013 into '14.
24	Q. Okay. And am I correct with the name of
25	the company?

		73
1	Α.	Yes.
2	Q.	Okay. And is the owner Jason Jones?
3	Α.	Yes.
4	Q.	Okay. Again, a lot of these names have
5	just kind of	come up in discovery. So if there's
6	anything tha	t I have incorrect, though, please correct
7	me. Where i	s this company located, if you know?
8	A.	Local.
9	Q.	Okay. Is it just one owner or do you
10	know if there	e's any employees?
11	A.	There was employees, but I have no
12	idea	
13	Q.	Okay.
14	A.	on ownership.
15	Q.	So I'm assuming then, and, again, correct
16	me if I'm wr	ong, this company was not coming to
17	Liberty Ridge	e to do work like the pallet company or
18	the gate com	pany; correct?
19	A.	Correct.
20	Q.	Okay. Are you aware of the arrangement
21	between Libe	rty Ridge and Jones Lumber for bringing
22	the resident	s to their location to do work?
23	A.	Yes.
24	Q.	Okay. What was that?
25	Α.	It was for residents that were about

1	through the program, and we felt we wanted to give
2	them to help them to fit back into society when
3	they leave Liberty Ridge as a work vocation.
4	Q. What type of work were the Liberty
5	Ridge residents doing at Jones Lumber, if you are
6	aware?
7	A. It was basically a mentor and a resident
8	that would go, and they would they would be on the
9	end product of where they would just sort lumber.
LO	Q. Okay. Are you aware of any other type of
11	work that was being done when they were at Jones
12	Lumber?
13	A. No.
14	Q. Were you ever present when the work was
15	being done?
16	A. No.
17	Q. Okay. Did Liberty Ridge receive any
18	payment or any compensation from them?
19	A. Yes.
20	Q. Okay. Was the to your knowledge, was
21	the work being performed at Jones Lumber simply for
22	the benefit of Jones Lumber on site or did they build
23	any products or do any work that was then sold for a
24	profit?
25	MS. WYNKOOP: Objection to form.

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1	A. I don't know what they did with their
2	BY MS. FRANCHI:
3	Q. Okay.
4	A. With their product.
5	Q. Okay. I'm going to take a quick break
6	from going through some of these companies, and then
7	we'll go back. I might need a reminder of where we
8	were at, but I'll make a note.
9	You had mentioned it was for residents
LO	who were a certain way through the program and needed
L1	to kind of re-acclimate with the you know, back in
L2	society. I don't know exactly what word you used, but
L3	that's what you meant; correct?
L4	A. Correct.
L5	Q. Okay. Are you aware of who determined, I
L6	guess, at what point in the programing each resident
L 7	was? Like how did that work?
L8	A. That was pretty much a committee
L9	decision.
20	Q. Okay. Was the committee involved in the
21	programing of each individual resident?
22	A. Yes. It was always by committee
23	approval as to any resident that would come to
24	Liberty Ridge.
25	Q. Okay. So we'll just use a hypothetical

1	resident. I don't need you to recall specifics about
2	anybody off the top of your head, but say a
3	hypothetical resident first came to Liberty Ridge.
4	What was the process for determining what therapy or
5	programing the child needed at least from 2011 to
6	2014?
7	A. Well, they all all residents would be
8	involved in our Bible classes. That was that was a
9	given. When it came back to vocational skills or
10	skills, we would try and make that match what they
11	liked to do. Not they didn't get to do everything
12	they liked to do all day.
13	But so if somebody had mechanical
14	interests, we would do some of that, teach some of
15	that. So yeah, we just matched what they were capable
16	of and helping them to develop that skill.
17	Q. Who determined how long each resident
18	spent at Liberty Ridge?
19	A. The committee.
20	Q. Okay. Because as we know, our client,
21	Robert Miller, was at Liberty Ridge for a much shorter
22	amount of time than David Cross; correct?
23	A. Correct.
24	Q. Okay. So for this hypothetical resident
25	that we're talking about, how would the progress be, I

[
1	guess, calculated or determined through their time at
2	Liberty Ridge?
3	A. On their progress and also how they were
4	relating to individuals.
5	Q. So it was more subjective?
6	A. Yes.
7	Q. Okay. Were there any benchmarks or
8	certain tasks or behaviors or I guess what were like
9	the milestone markers to determining how this
10	hypothetical resident would get through, I guess we'll
11	call it the program?
12	A. For one illustration is their respect for
13	those in authority.
14	Q. Okay. And, again, that was more on a
15	subjective basis?
16	A. Correct.
17	Q. There wasn't like a list that you checked
18	off?
19	A. Correct.
20	Q. Okay. Who generally interacted with the
21	residents the most on a day-to-day basis?
22	A. Department heads, house parents, and
23	mentors.
24	Q. Okay. I guess would the mentors kind of
25	be the first the first line of communication for

	78
1	the residents?
2	A. Not necessarily. They were there as big
3	brothers.
4	Q. Okay. But they would give the residents
5	direction?
6	A. Some.
7	Q. Okay. All right. So I'm going to try
8	to now that we've gone down that thought, I'm going
9	to jump back to when we were talking about the
LO	different companies.
L1	So I have seen some notation in the
L2	discovery that there was some type of trucking company
L3	or a garage that could have been in the Mechanicsburg
L 4	area that residents may have been taken to to do work.
L5	Are you familiar with that?
L6	A. No.
L7	Q. Okay. So you wouldn't know what that's
L8	referring to?
L9	A. No.
20	Q. Okay. Are you aware of any other
21	businesses or properties off of Liberty Ridge that
22	residents would be taken to to do any sort of work?
23	A. Not more than that Jones Jason Jones.
24	Q. Were any residents brought to any
25	individual's personal properties to do work that

	79
1	you're aware of?
2	A. Yes.
3	Q. Okay. Tell me about that.
4	A. They would sometimes they would go to
5	maybe the house parents, back to their residence.
6	Clean up leaves, something like that.
7	Q. Okay. Who would make that determination?
8	Would that be you or someone else?
9	A. That was always by board approval.
10	Q. Okay. Who would bring the proposal to
11	the board?
12	A. The house parents or one of the board
13	members.
14	Q. Okay. Were any of the residents
15	transported to any of the board members' homes to do
16	any sort of work, whatever it may be?
17	A. No. It was more of a day off from the
18	farm, more of a picnic type thing maybe you might say,
19	but they would have done some, like I say, clean up
20	leaves or something like that.
21	Q. Okay.
22	A. But nothing where they made any kind of
23	product to sell or anything like that.
24	Q. Okay. Did any of the residents while
25	they were still within the Liberty Ridge program come

1	to your home or your business to do any sort of work
2	that you can recall?
3	A. Yes.
4	Q. Okay. Was any of that during the 2011 to
5	2014 period, if you remember?
6	A. No.
7	Q. Okay. I'd also seen in some of the
8	paperwork and notated in some of the daily
9	inventories that there had been mention of a sawmill.
10	So you said there was no sawmill on the property of
11	Liberty Ridge?
12	A. No. I don't know what they're calling a
13	sawmill.
14	Q. Okay. Are you aware of whether there was
15	an operating sawmill anywhere that the boys were
16	brought to to do work?
17	A. That Jones Jason Jones would be the
18	only one that I can think of.
19	Q. Okay. Have you been to that property
20	before?
21	A. No, I haven't.
22	Q. So you don't know what's on it?
23	A. No.
24	Q. Okay. And, again, you can tell me if you
25	know this or don't know this. Is Jones Lumber, is it

	81
1	like a lumber processing business or do they build
2	items?
3	A. It's more of a processing. Yeah, it's
4	more of a processing.
5	Q. Okay. So like basically like take the
6	tree, planing, make it into boards, whatever?
7	A. Yeah, yeah. Into boards or I forget what
8	they call it.
9	Q. Yeah.
10	A. Yeah.
11	Q. I can picture it, and I can't remember
12	what it's called.
13	A. Yeah.
14	Q. Okay. Okay. So it's likely they were
15	talking about Jones Lumber?
16	A. I would think.
17	Q. Okay. At least to your knowledge?
18	A. To my knowledge, yes.
19	Q. Okay. What about the crops that were
20	grown on Liberty Ridge? It is my understanding there
21	was a small like garden food plot that the home would
22	use; correct?
23	A. Correct.
24	Q. Then there was a larger field or fields
25	where actual crops were grown?

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1	A. Correct.
2	Q. Okay. The small food plot aside, we
3	won't deal with that now. The larger field or fields
4	of crops, were those crops being grown and harvested
5	in 2011 onward?
6	A. Yes.
7	Q. Okay. About how many acres of crops were
8	on the property at that time?
9	A. 30.
10	Q. Okay. Do you know what types of crops
11	were grown or harvested on those 30 acres?
12	A. Yes.
13	Q. Okay. What were they?
14	A. Corn one year. Soybeans the next.
15	Q. So it would just rotate back and forth?
16	A. Right.
17	Q. Okay. Did the boys work on those
18	particular crops while they were at Liberty Ridge?
19	A. No.
20	Q. Okay.
21	A. The only thing no. They would have
22	got a ride in the combine when we harvested it, so.
23	Q. So was there any other involvement with
24	the residents and those particular crops?
25	A. No.

_	83
1	Q. Okay. Was there any involvement with the
2	residents and any of the equipment used for those
3	particular crops?
4	A. No.
5	Q. Okay. Who maintained those crops?
6	A. I was responsible for that.
7	Q. Okay. You personally or under like the
8	umbrella of your business?
9	A. Personally for Liberty Ridge.
LO	Q. Okay. What happened after those crops
L1	were then who would remove them from like
L2	harvest them and remove them from Liberty Ridge?
L3	A. Liberty Ridge would hire a Liberty
L4	Ridge paid for all input and for all equipment to
L5	remove the crop.
L6	Q. Okay. So it was so Liberty Ridge as
L 7	an entity was involved, but the residents were not?
L8	A. The residents were not.
L9	Q. Okay. So I just want I want to make
20	sure I'm understanding kind of how it was involved.
21	So was this your let me go back.
22	Was this Dutch-Way that was involved in
23	the crops or was it your other business or both?
24	A. This would have been in the crops
25	Nel-Ray would have been involved from the standpoint

1	84
	that we would transfer the crops from Liberty Ridge to
2	our farm because we had no storage at Liberty Ridge.
3	We would store the crops on my farm until we would
4	market them in Lancaster County or neighboring areas.
5	And the reason for that was so that
6	Liberty Ridge could get more for that grain than at
7	market. Your price at market is always the lowest
8	because there's more coming in.
9	Q. Right.
10	A. So we would store it for nothing, and
11	then I would transport it to the feed mills, and
12	Liberty Ridge would get the money.
13	Q. Okay. So it would be sold in bulk?
14	A. Yes.
15	Q. Okay. So it was all it was all feed
16	grain?
17	A. All feed grain, yes.
18	Q. Okay. So nobody wants to eat cow corn?
19	A. No.
20	Q. So who would starting from the
21	beginning like the beginning of the season, who would
22	first plant the crops?
23	A. Seven Stars Dairy.
24	Q. Okay. Were they paid anything to plant
25	the crops? I guess I'm assuming it was the seed or

1	whatever was purchased, and they would put it in the
2	ground?
3	A. Correct.
4	Q. Okay. Did they rent or did anybody pay
5	rent for use of the fields?
6	A. No.
7	Q. Okay. So whatever seed it was that year
8	was purchased. This company would first lay it.
9	They'd go about their business?
10	A. Correct.
11	Q. Were they involved ever again or was that
12	the extent of their involvement?
13	A. They would be involved again at the
14	harvesting side.
15	Q. Okay. So I'm assuming corn and soybeans,
16	they're pretty low maintenance while they're actually
17	growing?
18	A. Correct.
19	Q. Yeah. So aside from just, I'm assuming,
20	checking on them occasionally, there really wasn't
21	much that needed to be done until it was harvest time?
22	A. Correct.
23	Q. And that's a pretty long harvest. So
24	they'd be harvested once at the end of the season?
25	A. Correct.

	. 86
1	Q. And who would I guess whose combine
2	would be used to kind of go through and get the
3	harvest done? Was that yours?
4	A. No. Seven Stars.
5	Q. It was Seven Stars?
6	A. Yes.
7	Q. Okay. So Seven Stars would harvest
8	whatever crop it was that year?
9	A. Correct.
10	Q. Would Liberty Ridge pay them for their
11	labor to harvest whatever it was?
12	A. Whenever we got a bill.
13	Q. Okay. Once they were harvested, would
14	Seven Stars take the crops to your place or did you
15	come in and take what was harvested and then bring it
16	to the holding area?
17	A. I came in
18	Q. Okay.
19	A with my trucks, and I would get other
20	church people to come with their trucks
21	Q. Okay.
22	A and just haul it down.
23	Q. So it was just kind of a group effort?
24	A. Group effort, yes.
25	Q. Okay. Did anybody get paid for that

	87
1	removal and help or was it all volunteer?
2	A. Most was volunteer. Nel-Ray would have
3	got 20 cents a bushel to transfer it which is don't
4	even cover the cost.
5	Q. I was going to say I know the price of
6	feed has gone up significantly since then.
7	A. Yeah, yeah.
8	Q. But it's still pretty low?
9	A. Yeah.
10	Q. Okay. So it wasn't like markup for
11	A. No. There was no markup.
12	Q. Okay.
13	A. It was basically, again, volunteer.
14	Q. Okay.
15	A. Volunteer help, volunteer work.
16	Q. Okay. So that would have been the only
17	involvement that your business had with Liberty
18	Ridge?
19	A. Correct, except for some of the
20	remodeling.
21	Q. Right.
22	A. I brought my bulldozer up there and did
23	some work. Again, just got paid for my fuel costs.
24	Q. Okay. But as it relates to like product
25	or crops, that's it?

		88
1	Α.	That's it.
2	Q.	Okay. What about Dutch-Way?
3	Α.	No involvement.
4	Q.	Were those trucks ever used to help
5	transport the	e grain or the feed?
6	A.	We would have used a truck that was
7	owned by Nel	-Ray Farms but had a Dutch-Way Farms logo
8	on it.	
9	Q.	Okay. So that's how this name came up?
10	A.	Yes.
11	Q.	Okay. So it would have been there just
12	to move thing	gs off the property?
13	Α.	Just to move things off.
14	Q.	Okay. Off the top of your head, are
15	there any ot	her businesses that you can recall without
16	looking spec	ifically into the records or did we kind
17	of cover eve	rything that would have been during the
18	2011 to 2014	time period?
19	A.	I would say we covered there were a
20	few others t	hings involved with the chickens that a
21	different bu	siness would have brought things in, but
22	nothing n	othing for Liberty Ridge.
23	Q.	Okay. Did Liberty Ridge make any
24	payments to	or, I guess, give any sort of compensation
25	to the Missi	on?
	l	

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1	A. Yes.
2	Q. In what capacity?
3	A. The Mission bought the property, so there
4	would be I'm going to call it church offerings
5	which you'll see in your ledger. And anything that
6	came through on church offerings we did not use for
7	operating expense. That all went back to the Mission
8	toward the property.
9	Q. Okay. So Liberty Ridge never directly
LO	solicited the congregations?
L1	A. Correct.
L2	Q. Okay. How, if you know, how did the
L3	individual congregations go about I forget the
L 4	term. It was used for two days, and I know that it
L5	wasn't soliciting and offering, but it was another
L6	term.
L7	MS. WYNKOOP: Lifting an offer.
L8	MS. FRANCHI: Was it lifting an offer?
L9	A. Yeah.
20	BY MS. FRANCHI:
21	Q. Okay. I don't want to use the wrong term
22	because soliciting and offer does sound quite
23	different. So, okay. So when the individual
24	congregations would lift
25	A. Lift an offering.

	90
1	Q. Lift an offering, that wasn't at the
2	direction of Liberty Ridge?
3	A. Correct.
4	Q. Okay. Or at the direction of the
5	Mission?
6	A. Correct.
7	Q. Okay. It would just be on their own.
8	They would decide one day this is what they're lifting
9	an offering for?
10	A. They knew there was there was debt
11	there to be paid, and so yeah.
12	Q. Okay. And then those offerings would
13	then go instead of directly to Liberty Ridge would
L4	go to the Mission?
15	A. Some went straight to the Mission. Some
16	would come through Liberty Ridge, and then I would
17	forward it back to the Mission.
18	Q. Okay. So
19	A. Penny for penny.
20	Q. It always ended up at the Mission at some
21	point?
22	A. Correct. Yeah.
23	Q. Okay. And that was all going towards the
24	cost of the property?
25	A. Correct.

	91
1	Q. So what was the arrangement for paying
2	back the property costs? I'm assuming then there was
3	a payment made to the Mission for the cost of buying
4	the land, correct, or was it more like rent?
5	A. Liberty Ridge never never paid nothing
6	out of the operation
7	Q. Okay.
8	A for the property.
9	Q. Okay. So there wasn't like a formal
LO	arrangement?
L1	A. No.
L2	Q. So it would basically be, and, again,
L3	please correct me if I'm wrong, that if offerings came
L 4	in for Liberty Ridge, they would just go to the
L5	Mission to pay for the property, but otherwise that
L6	was it?
L7	A. That's correct.
L8	Q. Okay. So it's my understanding that the
L9	kind of general stated goal for Liberty Ridge for
20	residents to perform work or activities in a
21	structured schedule to improve their, quote, spiritual
22	and behavioral growth; correct?
23	A. And to develop their their skills.
24	Q. Okay. And when you talk about developing
25	their skills, I'm assuming that means to be gainfully

		92	2
1	employed?		
2	Α.	Correct.	
3	Q.	Okay. Like	
4	Α.	Well, not at Liberty Ridge. But as they	
5	leave Liber	ty Ridge, that they can take those skills	
6	and be an as	sset to society.	
7	Q.	Like a functioning member of society?	
8	Α.	Right. Right.	
9	Q.	Okay. So I know the terms of spiritual	
LO	and behavior	ral growth is a little vague and could mean	
L1	a lot of di	fferent things depending on the context.	
L2	But within	your work with the committee, what does	
L3	that mean to	o you and to Liberty Ridge spiritual and	
L 4	behavioral	growth?	
L5	Α.	Well, we think of behavioral growth, we	
L6	know that tl	hese boys came to us by their parents	
L7	because of 1	not getting along with their parents at	
L8	home. So o	ur goal always was to return the boys back	
L9	to their par	rents. That was our goal.	
20	Q.	Okay.	
21	Α.	And along with that, teach them some,	
22	again, voca	tional skills while they were there.	
23	Develop that	t as much as we could, and then, of course,	
24	our program	is very faith based. And so we also	
25	taught from	the Bible, and it was up to the boys to	

	93
1	accept it or reject it.
2	Q. Were you ever involved in any of the like
3	Bible study or school studies with the boys?
4	A. Not sure. I think I was I mean, but
5	it wasn't my it wasn't my responsibility.
6	Q. Right. So you may have participated here
7	and there?
8	A. Correct.
9	Q. Okay. But you weren't the one every day
10	sitting down with them?
11	A. Correct.
12	Q. Okay. That would take a lot of patience
13	I'm sure.
14	A. Yeah.
15	Q. So I'm aware that the parents or whoever
16	the guardian was for the boys would pay to send their
17	children to Liberty Ridge?
18	A. Correct.
19	Q. Was there a specific amount that
20	everybody paid or did it depend?
21	A. We had a suggested donation to the farm
22	while their child was there to Liberty Ridge, and we
23	never charged them interest or anything like that. If
24	they could pay it, fine. And if not.
25	Q. So I'm assuming when you say that there's

	94
1	a suggested donation, there wasn't like a written
2	contract that said every month on the 15th you owe me
3	this much?
4	A. No.
5	Q. Okay. What would happen if a parent
6	didn't pay one month?
7	A. We just kept working with the boy just
8	like we would if they would have paid.
9	Q. Was there ever a time that you recall
10	where one of the residents was either removed from the
11	program or asked to leave for failure to pay by their
12	parents?
13	A. No.
14	Q. Okay. What did those payments from the
15	parents cover? Like I guess when they're donating the
16	money, what would that go to?
17	A. Operating expense. Help to cover for
18	it just cost a lot for the food, for the yeah,
19	operating expense.
20	Q. Does Liberty Ridge currently have any
21	paid employees?
22	A. Our administrators would be would get
23	a salary or
24	Q. I know and, again, I know the
25	structure has changed since the beginning. Who

1	95
1	currently now is being paid a salary or being paid as
2	an administrator?
3	A. There's you want individuals' names?
4	Q. Yeah, I mean if you know them all
5	offhand.
6	A. Yeah, I do. Melvin Rohrer and Marvin
7	Gehman and Vernon Weaver which is our school teacher,
8	and Philip Denner.
9	Q. I want to go back when Liberty Ridge
10	started. Were there any salaried employees?
11	A. House parents would have got a monthly
12	allowance for their time there, yes.
13	Q. Okay. So it was a little bit less
14	structured than
15	A. Correct.
16	Q. Than it is now?
17	A. Correct.
18	Q. Okay. From 2011 to 2014, to your
19	knowledge, the main house parent was Mr. Weaver and
20	his wife Ruby; correct?
21	A. Correct.
22	Q. Okay. There were other house parents who
23	would fill in?
24	A. Correct.
25	Q. Were they on any like rotating schedule

		06
1	or was it ju	st whoever was available?
2	Α.	It's whoever was available.
3	Q.	To give Mr. Weaver a break?
4	Α.	Correct.
5	Q.	Okay. Was there a specific amount that
6	the house pa	rents were compensated? Like was it \$55 a
7	day or was i	t a little more fluid than that?
8	Α.	The full-time house parents were so much
9	a month.	
10	Q.	Okay.
11	Α.	And then fill-in house parents were so
12	much a day.	
13	Q.	Okay. What about the mentors?
14	Α.	They got a monthly allowance for very
15	little, just	to pay some of their gas to go back and
16	forth.	
17	Q.	All of the individuals that were, I
18	guess, the,	quote, unquote, staff at Liberty Ridge at
19	least from 2	011 to 2014, they all had primary
20	residences e	lsewhere?
21	Α.	Correct.
22	Q.	Okay. And it's my understanding that the
23	mentors were	all unmarried?
24	Α.	Correct.
25	Q.	Okay. So they didn't have families that

		97
1	they were su	
2	Α.	Right.
3	Q.	Did they have other full-time jobs?
4	Α.	Before they came to Liberty Ridge, yes.
5	And so they	came as volunteers, and then most of them
6	would just g	o back to their employees employers
7	after they w	ere done at Liberty Ridge.
8	Q.	Okay. So they weren't maintaining
9	full-time jo	bs while they were at Liberty Ridge?
10	Α.	No. They were mentors. They were at
11	Liberty Ridg	re.
12	Q.	Okay. And they were living there?
13	Α.	Correct.
14	Q.	And from what I understand, they were
15	with the boy	s pretty much 24 hours a day except for
16	like bathroo	oms and showers basically?
17	Α.	Correct.
18	Q.	Okay. Were there times that you saw any
19	of the boys	kind of on their own at their own like
20	their own di	rection or were they usually always guided
21	to some exte	ent where they were supposed to be?
22	Α.	Clarify your question.
23	Q.	I mean they weren't just like roaming
24	around aimle	essly?
25	Α.	When you say boys, are you talking

		98
1	about	
2	Q. Sorry. The residents.	
3	A. Okay. Yeah. No. They were under	
4	supervision pretty much if not the mentor, it would	be
5	the house parent.	
6	Q. So by some adult?	
7	A. By some adult, yes.	
8	Q. Did you ever have any like sit-downs or	:
9	I'm going to say trainings, but I'm talking about	
10	trainings in a different context from like training	to
11	work with youth. I mean did you ever have any	
12	sit-downs or trainings with the mentors about the	
13	different business operations or different	
14	occupational exercises that were going on at Liberty	7
15	Ridge?	
16	A. We would have talked about that in our	
17	staff meetings as a group about the skills and any	
18	safety.	
19	Q. Okay. And then the mentors would then	
20	communicate that information to the residents?	
21	A. Most times that was communicated through	уh
22	the department heads.	
23	Q. Okay.	
24	A. Or house parents.	
25	Q. Were there ever any directions given to)

	99
1	the mentors such as you need to spend five hours
2	building pallets today or, you know, two hours with
3	the chickens today, anything like that?
4	A. No. It was basically on a day-to-day
5	basis as to what whatever whatever needed to be
6	done, and the vocational skills are always secondary.
7	Q. Okay.
8	A. The boys' needs were first.
9	Q. Okay. So I guess the overarching
LO	question is who kind of made the I don't want to
L1	say made the schedule, but kind of determined that
L2	there needed to be so much done with the chickens, and
L3	there had to be so much done with all these things
L 4	before they got to working with the pallets or the
L5	gates?
L6	A. Well, there we had a daily schedule, so
L7	it was the chickens, of course, because of there being
L8	animal welfare, they needed a certain amount of care.
L9	Q. Right.
20	A. And some days it meant more than others.
21	So, again, it was very flexible. And everything else,
22	gate making or whatever came, again, secondary.
23	Whatever we had time for.
24	Q. So alive things first, everything else
25	after?

1	A. Correct.
2	Q. Okay. What were some of the other tasks
3	that the boys had about the property other than the
4	businesses that we were talking about that you're
5	aware of?
6	A. Property maintenance. They would
7	yeah. Mow the yard. And, of course, they all had
8	their house chores to do.
9	Q. I guess outside of the home, other than
10	mowing the yard, what were some of the other tasks
11	that you recall?
12	A. Oh, they would sometimes go out into the
13	wooded area and make trails for them to hike on. And,
14	again, that wasn't that was kind of a sideline
15	thing.
16	Q. That was kind of outside of the normal
17	daily schedule?
18	A. Outside the normal, yeah. That was just
19	for something different.
20	Q. In your estimation, about how much of
21	the property is like wooded versus cleared or
22	structures?
23	A. It's I think it's 50 acres of wooded.
24	Q. Oh, okay.
25	A. And maybe 10 acres of structure and 30

	101
1	acres of farm land.
2	Q. Okay. So when there's been talk about
3	the boys either felling trees or cutting any firewood
4	or anything like that, that would come from the woods
5	that you're talking about?
6	A. Some. Some would be from the woods, yes.
7	Q. Okay. What would the other be? When you
8	say some would be, what would the other be?
9	A. Well, we burn firewood there on the farm
10	for heat.
11	Q. Okay.
12	A. So we would bring triaxials of logs in.
13	I mean they would deliver logs there, and then they
14	would cut that up and split that for
15	Q. Oh, okay.
16	A firewood as well.
17	Q. Were those logs that were brought in,
18	were they donated or were they paid for?
19	A. Some were donated. Some were paid for.
20	Q. Okay. Were the boys ever involved in the
21	selling of the trees or was that not
22	A. No.
23	Q. Okay.
24	A. No.
25	Q. When with the firewood that was taken

[
1	from the actual property, would that have been trees
2	that were already down?
3	A. Yes. Well, for the most part or a dead
4	tree.
5	Q. Okay. When it came to actually taking
6	the trees down, if that were required, it would be one
7	of the adults?
8	A. Correct.
9	Q. Okay. And then would be dragged out of
10	the woods one way or the other?
11	A. Correct.
12	Q. Would the boys do that or was that, I'm
13	assuming, some type of equipment?
14	A. That's always a mentor or department
15	head.
16	Q. Okay.
17	A. The boys were not allowed to operate
18	equipment.
19	Q. Like the actual rideable farm equipment?
20	A. Correct.
21	Q. Okay. When it came to splitting the
22	wood, obviously it would be a full tree first. How
23	was it then processed?
24	A. They would the mentors would, of
25	course, cut it to length with a saw, and then the

1	mentors and t	103 the residents would split it with a maul.
2	Q.	Okay. Was there like the splitter
3	that was used	d, I know there's all sorts. There's
4	the you ca	an either use an ax or you can go
5	there's very	fancy splitters that you can attach to
6	tractors. Wh	nat was used, to your knowledge?
7	Α.	It was the manual. They call it a
8	splitting max	ıl.
9	Q.	Okay.
10	A.	Where they use a hammer to hit it and
11	split it.	
12	Q.	Okay. Are you aware of whether any of
13	the residents	s used any chain saws or any of that
14	equipment?	
15	A.	Not that I'm aware of.
16	Q.	Okay. Was it
17	A.	Unless not that I'm aware of unless
18	they were of	age.
19	Q.	Okay. What would be of age?
20	A.	18 and older.
21	Q.	Okay. So it's your understanding that
22	just the ment	cors should have been using
23	A.	Correct.
24	Q.	the chain saws?
25	A.	Correct.

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1	Q. Okay. Are you aware of what was
2	communicated to the residents' parents upon the
3	residents coming to reside at Liberty Ridge? And what
4	I mean by that is are you aware of what was told to
5	them of what their stay would entail like their
6	schedule, what the goals were, and things like that?
7	A. That was really not my field.
8	Q. Okay.
9	A. I know what, you know, some things the
LO	committee would agree upon, but I that was not
L1	my that's not my field.
L2	Q. You weren't involved in those
L3	conversations?
L4	A. I mean very little, if at all.
L5	Q. So if somebody from, you know, from the
L6	community asked you, you would say this is what
L7	Liberty Ridge is, but you weren't involved in the
L8	actual like recruitment or assessment of the boys?
L9	MS. WYNKOOP: Objection to form.
20	A. Correct.
21	BY MS. FRANCHI:
22	Q. Okay. When you were at Liberty Ridge for
23	any reason, were you ever involved in like the
24	administering or evaluating of consequences for
25	residents?

1	105
1	A. Yes.
2	Q. Okay. How often?
3	A. I don't know.
4	Q. Okay. So would it be safe to say on
5	occasion, but that wasn't your role?
6	A. Correct. It wasn't anybody on the
7	committee, it was their role to help if they were
8	there.
9	Q. Okay. So when you were on the property,
10	you don't need to give names of any of the residents
11	unless it was one of my clients, you can certainly
12	do that, but you don't need to name names of any other
13	children. Give me some examples of the times that you
14	recall being involved in any consequences.
15	A. Oh, there was one time maybe I can think
16	of where a resident was sometimes we would have
17	them work at a stump that we wanted removed, and they
18	would work at digging some of the dirt away, some of
19	that.
20	Q. Okay. Do you remember what precipitated
21	the need or the giving the direction to do that? Like
22	what the behavior was?
23	A. That varied, but a lot of times it was,
24	you know, disrespect or not listening or the list can
25	go on.

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1	MS. FRANCHI: I'll pause for just a
2	second.
3	MS. WYNKOOP: Can we actually go off so I
4	can
5	MS. FRANCHI: Yes.
6	THE VIDEOGRAPHER: Off camera time is
7	11:29.
8	(Recess)
9	THE VIDEOGRAPHER: On camera time is
10	12:08.
11	BY MS. FRANCHI:
12	Q. All right. So we are back. The last I
13	think few questions we were talking about had to do
14	with whether you were ever involved in children or
15	residents and their consequences, things like that.
16	Generally speaking, though, is it your
17	understanding that the day-to-day discipline,
18	etcetera, for residents was taken care of by the
19	mentors and/or the house parents?
20	A. Correct.
21	Q. Okay. Was it an understanding that when
22	either the committee members or anybody from the
23	Mission came to the property for whatever reason, that
24	they had some semblance of control over the situation?
25	Like you were able to discipline the child for, you

1	know, disrespect or something like that?
2	A. From the Mission, probably I don't know
3	that that ever would have happened. From the Liberty
4	Ridge committee, again, we wouldn't just take things
5	into our own hands. We would work together as a
6	team.
7	Q. Okay. Were you ever on the property when
8	any of the children were ever physically restrained
9	for any reason?
10	A. Not that I can remember.
11	Q. Okay. Were you ever on the property
12	after like general work hours like into the evening or
13	anything like that?
14	A. Yes.
15	Q. Okay. When you were there on the
16	property after, let's say, normal work hours, did you
17	ever observe any of the residents having to do or
18	perform any consequences during that time?
19	A. Yes.
20	Q. Were they I know there are different
21	kind of levels. There was it started with a talking
22	to. Having to maybe write some sentences or writing
23	some essays and kind of went from there.
24	When you observed any of the consequences
25	after hours, was it any of the physical consequences

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1	like running or doing work?
2	A. Yes.
3	Q. Okay. What are those what events do
4	you recall?
5	A. One would have been, I think, when they
6	were digging a stump.
7	MS. FRANCHI: We can go off the record
8	for just a second. You can leave that on.
9	(Discussion held off the record.)
10	BY MS. FRANCHI:
11	Q. During your time working with Liberty
12	Ridge, did you ever encounter either of my clients,
13	David Cross or Robert Miller?
14	A. You mean that I would have been with
15	them?
16	Q. Just I think just generally first do you
17	recall being around them or encountering them?
18	A. Sure.
19	Q. Okay. Did you know either of them before
20	they were placed at Liberty Ridge?
21	A. No.
22	Q. Okay. Did you ever give start with
23	David actually because I know David was there before
24	Robert and also after Robert.
25	When you encountered David at Liberty

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1	Ridge, did you ever give him direction to do any work,
2	anything like that, or was it more just kind of a
3	mere I would say mere encounter has a legal meaning
4	in the criminal context, but did you just encounter
5	and interact with him?
6	A. I'm sure I told him to do this or do that
7	along the way.
8	Q. Okay. And I know that you had said
9	generally you weren't involved with the recruitment or
LO	kind of bringing in any of the residents, so would I
L1	be correct in saying you weren't involved with
L 2	bringing David into Liberty Ridge?
L3	MS. WYNKOOP: Objection to form.
L 4	A. Not that I remember.
L5	BY MS. FRANCHI:
L6	Q. Okay. Were you ever involved in either
L7	redirecting, correcting, or administering any
L8	consequences to David when he was at Liberty Ridge?
L9	A. I can't recall.
20	Q. Okay. Do you ever recall having any
21	conversations with or discussions with David about his
22	either mental health condition or his prescription
23	medication?
24	A. No.
25	Q. Were you involved in any way with David

		110
1	leaving Liber	rty Ridge? And I'm not talking about him
2	running away	. I'm talking about him actually
3	physically be	eing done with the program.
4	A.	I would have I would have known when
5	he left wh	nen he left the program, but I can't
6	recall for su	ure. I kind of think it's when he walked
7	away, I thin	k so, but I might be I'm not sure.
8	Q.	Okay. Do you recall whether after David
9	left the prog	gram, I guess, for good, did he come to
LO	your home at	any point after that, if you remember?
L1	A.	I know he came to my home, but I was
L2	thinking that	t was yes, he did. Yes, he did.
L3	Q.	Okay. How long did he stay?
L4	A.	It was basically for a day when where he
L5	were staying	, they wanted to go away, so he came to my
L6	place.	
L7	Q.	Okay. So it was just kind of temporary?
L8	Α.	Temporary.
L9	Q.	Okay. Do you recall what happened after
20	that?	
21	Α.	No.
22	Q.	Okay. Did you bring him back wherever he
23	needed to go	or did somebody pick him up?
24	Α.	Somebody always picked him up.
25	Q.	Okay. And that was kind of the end of

_	111
1	your involvement with him?
2	A. No. I've been in I've been in David
3	Cross's life a good bit after he was done at Liberty
4	Ridge.
5	Q. Okay.
6	A. I was I was on his visitor list in the
7	prison. I actually picked him up at prison as an
8	inmate and took him to a funeral.
9	Q. Okay.
10	A. Yeah.
11	Q. So you've been kind of aware of what has
12	gone on as he became an adult in the last few years?
13	A. Yes.
L4	Q. Okay. What about Robert Miller? Were
15	you familiar with him prior to him coming to Liberty
16	Ridge?
17	A. No.
18	Q. Okay. So, again, it would be safe to say
19	you weren't involved with bringing him to Liberty
20	Ridge?
21	A. No, because I remember coming to Liberty
22	Ridge, the first time I seen him is when he was there.
23	Q. Okay. Tell me about that, the first time
24	you encountered him.
25	A. I just seen him going with his mentor.

		112
1	That's all I	
2	Q.	Okay. Didn't have much interaction with
3	him?	
4	A.	Not with Robert, no.
5	Q.	Okay. You don't recall ever, you know,
6	directing him	m to do anything?
7	A.	Again, maybe a day-to-day something, but
8	nothing	
9	Q.	Nothing that stands out?
10	A.	No.
11	Q.	You don't recall any behavioral issues,
12	anything like	e that?
13	A.	No. Robert's pretty vague in my mind.
14	Q.	Okay. I guess that can be a good thing
15	sometimes.	
16	A.	Yeah.
17	Q.	Okay. I think I'm going to kind of
18	switch gears	a little bit. I want to look a little
19	bit into the	ledgers that were provided to me. I
20	believe yest	erday or the day before were emailed over.
21	So I believe	you have them there actually Bates
22	stamped. The	ey're not in the binder, but they're in
23	front of you	•
24		So I think what I'll do is just generally
25	go over the	creation of the ledgers, and then I will

	113
1	ask you some specific questions. So in your role as
2	treasurer, is it your responsibility to prepare and
3	maintain the account activity and the ledgers for
4	Liberty Ridge?
5	A. Yes.
6	Q. Okay. So these three ledgers that were
7	provided to me for the years of 2011, 2012, and 2013
8	were prepared by you?
9	A. Correct.
LO	Q. Okay. Tell me about just generally your
L1	preparation of these ledgers. And I guess what I'm
L 2	looking for mainly is like is it do you take
L3	information from other sources and input it? Is this
L 4	something that you retrieve and just download from
L5	somewhere else? Tell me about that a little bit.
L6	A. What this is is I have a software that I
L7	do all my checking account on, and so it's all in my
L8	laptop. So it's just a matter like when I pay my
L9	bills, you'll see that right here, everything, so I
20	can go there and retrieve it
21	Q. Okay.
22	A right out, and this is this is what
23	you get.
24	Q. So not too much interaction?
25	A. No.

		114
1	Q.	Okay.
2	Α.	No. And this is all this was all
3	my on a ye	early basis we have auditors that audit my
4	books.	
5	Q.	Okay.
6	A.	To make sure everything holds out, so.
7	Q.	Okay. And would this include having the
8	Liberty Ridge	e books audited, also?
9	A.	Yes.
10	Q.	Okay. So not just personal, your
11	business?	
12	Α.	No. That's what I'm talking about,
13	Liberty Ridge	<u>2</u> .
14	Q.	Okay. So tell me about the process of
15	just keeping	track of the day-to-day expenses from
16	Liberty Ridge	e. Are you inputting all the receipts in
17	or is this	you know, are the debits and credits
18	coming from a	another account and being uploaded into
19	your software	e?
20	A.	No. I'm actually working right off this
21	software, and	I pay the pay the bills right with my
22	laptop. Prir	nts the checks. Puts it right in here.
23	So it's th	nere's nothing else that I'm downloading
24	into it. It	's actual work.
25	Q.	Okay. So we'll start with the 2011,

1	which I think is actually the smallest one of these,
2	which I believe goes from Numbers 287 through 293.
3	Does that look about right?
4	A. Yep.
5	Q. Okay. So when looking at this ledger, I
6	see it says accounts payable, accounts receivable,
7	administrative expense, and then checking. Under
8	where it says checking, does that encompass every
9	transaction that is contained in the ledger?
10	A. Yes.
11	Q. Okay. So then when you flip through and
12	go to the individual line items of chicken house,
13	chicken income, etcetera, etcetera, all of those items
14	would be contained in the general checking part of the
14 15	would be contained in the general checking part of the ledger, but then they're just itemized separately?
15	ledger, but then they're just itemized separately?
15	ledger, but then they're just itemized separately? A. Correct.
15 16 17	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay.</pre>
15 16 17 18	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find</pre>
15 16 17 18 19	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking.</pre>
15 16 17 18 19 20	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking. Q. Okay. Do you have anybody else that</pre>
15 16 17 18 19 20 21	ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking. Q. Okay. Do you have anybody else that helps you compile any of these expenses or maintain
15 16 17 18 19 20 21	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking. Q. Okay. Do you have anybody else that helps you compile any of these expenses or maintain any of the books or is that all your job?</pre>
15 16 17 18 19 20 21 22	ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking. Q. Okay. Do you have anybody else that helps you compile any of these expenses or maintain any of the books or is that all your job? A. It's basically my job. My wife will help
15 16 17 18 19 20 21	<pre>ledger, but then they're just itemized separately? A. Correct. Q. Okay. A. Correct. You should be able to find those amounts back here in the checking. Q. Okay. Do you have anybody else that helps you compile any of these expenses or maintain any of the books or is that all your job?</pre>

this.
Q. Okay. So, and I think that we probably
won't need to go over each of these in excruciating
detail once we get the idea of what is contained
herein, but just walk me through it right now.
So the invoices contained at the top, the
Nel-Ray Farms, where it says accounts payable, what
would that be from? I see one debit for a thousand
and one credit for a thousand. Do you recall what
those transactions would be and what that kind of
portrays?
A. To the best of my knowledge, that was a
thousand dollar loan from Nel-Ray to Liberty Ridge to
pay bills until Liberty Ridge had money to pay me
back.
Q. Okay. And where it says here accounts
receivable from Bill Cross, would that have been one
of the like monthly donations from David's father
paying for his stay at Liberty Ridge?
A. Correct.
Q. Okay. So generally throughout the
ledgers then where it says the accounts receivable and
the accounts payable, those would would those
generally reflect just the incoming checks from
parents or any loans, anything to that effect?

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1	A. Yeah. And that should be broke down more
2	as you get back through further.
3	Q. Okay.
4	A. On some of the on all of them.
5	Q. So accounts receivable, administrative
6	expenses, and accounts payable would also be contained
7	elsewhere?
8	A. Correct.
9	Q. Okay. That's what I was getting at. I
LO	just want to make sure that it is reflected somewhere
L1	else in the document. Okay. So, and, again, I
L 2	understand that some of these transactions occurred
L3	before there were residents at the program, but I
L 4	figured we'd start from the beginning. They're all
L5	kind of set up the same way and get an idea of what
L6	there is.
L7	So where it says here the chicken house
L8	expenses, are these all just operating costs that go
L9	along with maintaining the chicken house on the
20	property?
21	A. Yes.
22	Q. Okay. So, say, like signs would be for?
23	A. That was for a sign to direct the trucks.
24	MS. FRANCHI: Okay. Can I go off the
25	record just a second?

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1	THE VIDEOGRAPHER: Off camera time is
2	12:22.
3	(Discussion held off the record.)
4	THE VIDEOGRAPHER: On camera time is
5	12:30.
6	BY MS. FRANCHI:
7	Q. Okay. So I had started to go down a line
8	of questioning with Mr. Martin having to do with just
9	the ledger account generally starting to go through
LO	the different the items indicated such as checking,
L1	the chicken house, etcetera?
L2	We went off the record and took a brief
L3	break at which time I had a conversation with defense
L 4	counsel about how to handle the records that we have
L5	here. It was agreed that instead of going
L6	line-by-line through each item, the main takeaway was
L 7	that we wanted to have Mr. Martin take a look through
L8	the records and see if he identifies any other
L9	businesses that weren't otherwise talked about earlier
20	in his testimony, meaning not necessarily a business
21	that provided a service to Liberty Ridge like
22	supplying a sign or paving a driveway, but more to the
23	effect of whether there are any other businesses to
24	which any of the residents contributed labor or
25	services or anything of that nature.

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1	So we have given Mr. Martin an
2	opportunity to look through everything, so I guess the
3	question that I will ask is, Mr. Martin, after looking
4	through the records for a little while, are there any
5	other businesses that you have identified during that
6	time?
7	A. No, there is not that I could come up
8	with.
9	MS. FRANCHI: Okay. Attorney Wynkoop,
10	does that fairly summarize what we had talked about
11	when we were off the record?
12	MS. WYNKOOP: That's correct.
13	MS. FRANCHI: Okay. So with that, it was
14	also discussed and agreed that if we have any
15	line-by-line questions about any of these specific
16	items, that we will be able to deal with them in
17	written form or off the record at this point going
18	forward.
19	Obviously, we agreed that any witness
20	including Mr. Martin will be subject to recall if we
21	need, but at this point we just don't see that it
22	would be productive to kind of go through every
23	individual entry in the ledgers, is that correct?
24	MS. WYNKOOP: That's correct.
25	MS. FRANCHI: Okay. So with that, I

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 1
     actually do not think that I have any more questions
 2
     at this time.
                     I'm not sure if counsel has any
 3
     follow-up questions for Mr. Martin.
                  MS. WYNKOOP: I do not have any
 4
 5
     questions.
 6
                  MS. FRANCHI:
                                 Okay.
 7
                   THE VIDEOGRAPHER: All right.
                                                   This
     concludes today's deposition. The time on the monitor
 8
 9
     is 12:43.
                   (The deposition was concluded at 12:43
10
11
     p.m.)
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1	COMMONWEALTH OF PENNSYLVANIA)) SS.	121
2	COUNTY OF YORK)	
3	T Track I Iloud a Dogictored	
4	I, Tracy L. Lloyd, a Registered Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of	
5	York, do hereby certify that the foregoing	
6	testimony was taken before me at the time and place hereinbefore set forth, and that it is the	
7	testimony of:	
8	NELSON MARTIN	
9	T fourthern would be that weld with an	
10	I further certify that said witness was by me duly sworn to testify the whole and	
11	complete truth in said cause; that the testimony then given was reported by me stenographically, and	
12	subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand	
13	notes.	
14	I further certify that I am not counsel for nor related to any of the parties to	
15	the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject	
16	matter or outcome thereof.	
17	Dated at York, Pennsylvania, this 2nd day of November, 2022.	
18	Mary & Mary & Shall	
19	July July	ļ
20	Tracy L. Lloyd, Notary Public	
21	Registered Professional Reporter	
22	(The foregoing certification does not apply to any	
23	reproduction of the same by any means unless under the direct control and/or supervision of the	
24	certifying reporter.)	
25	My Commission expires: April 21, 2023	

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12,16 108:1 109:1

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would've 29:17 62:21

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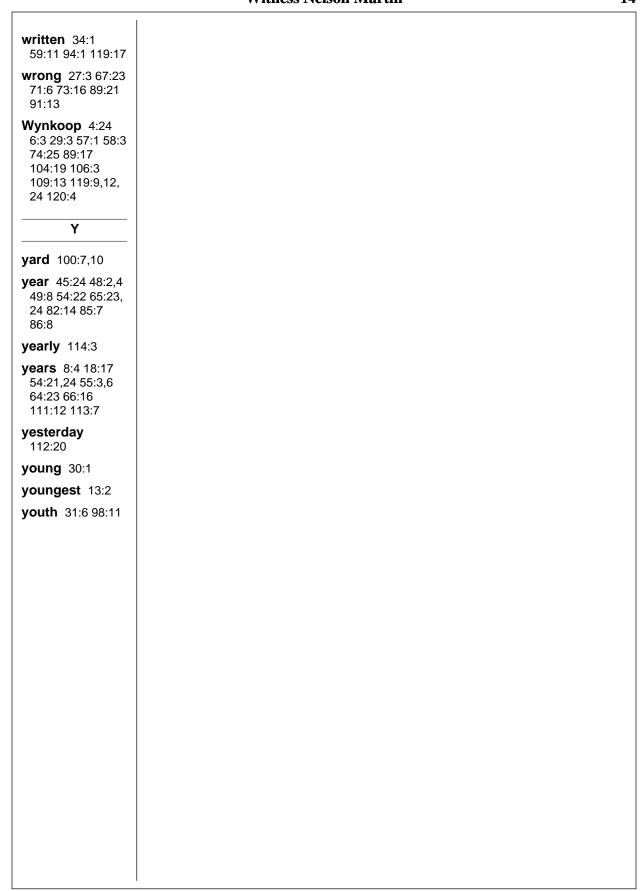


EXHIBIT D

Liberty Ridge Farm Resident Application - Parents

	of youth David Edward Cross Date 10-08-11
Addres	Race White Age 15 Parents Bill & Joann Cross Congregation Blue Rock Adopted - Yes No Re Eddoption
1.	Describe the situation that has led you to contact Liberty Ridge Farm. Tt doesn't work for him to be at home with his sibblings.
2.	Describe his pattern of misbehavior Hyper, instigator, rebellious, anger
3.	Describe any physical limitations he has. None
4.	How does he express anger? Unreasonable, threatening
5.	Has he ever been abused physically, verbally, sexually? (Circle those that apply) Describe that abuse Happened before he was adopted. We do not know defails.
6.	Does he struggle with depression? If yes explain his struggle
7.	How does he relate to his peers? Enjoys stirring up
8.	How does he relate to his siblings? Same as # 7

	If yes, how did he relate to that death?
32	Describe his school life. Learning was difficult.
	Certain concepts he never could retain.
	Explain the methods of discipline you used on this child (what worked, what didn't we spanking, taking away priviles, standing in a corner, sitting with hands to I ded
	Sometimes none worked.
	What seems to be the most difficult thing for your child to do? Stay focused. He has been on medication for ADHD, presc. by a doctor at Philhaven.
	Describe a typical meal time in your home. Most of the time we ate as a family. Discussing the day's happenings or what we plan to do was a normal discussion.
	Describe how you communicate with your family. We talk
	What hobbies does your child have? None
	Has your child ever had access to alcohol, drugs, tobacco? If so explain
	Will you support and submit to the Liberty Ridge Farm guidelines?

ZØ/TØ **39∀**d

SINGENES XXXX

happened in those times. But one time he went to trein with his foster father & they met up with his mother. She need. He. Robert, but he seemed very frightened at meeting up with her

83\18\58ts 73:52 eredents

Mar 10 2012 12:53PM EHRHK GHKMHM

71/4468446

base I

Liberty Ridge Farm
Resident Application Parents

Name Addre	of youth Robert Henry Miller Date 3-20-2012 88 2518 CR 1700 F. Author, T.L. 61911 Parasis Allan Miller Congregation Belin N.M. Adopted Tas No.
1.	Describe the situation that has led you to compact Liberty Ridge Farm. Robert Lived with us few 9 months and it has become eindent with his behevior that he needs move consentrated, vigid held to help him develop
2. (Describe his pattern of mispelsories for has had many wants of them. Les pecially attested to music. It seems like one he gets no for an answer he doesn't know horte over that and has flown off the bundle or gotten into
3. .	Describe any physical limitations he has less himself
4.	How does he express anow? With throat although he has he he point where talking didn't do much good anyware
5,	Has he ever been abused physically verbally, extently? (Circle chose that apply) Describe that abuse physically shake a as a small child fill his one eice got messed up According to him the way his dad (Allan) spanked him was a busive (with a piece of steel)
6.	Does be sarriggle with depression of 165. If you explain his sarriggie Not Kinguing why he ever evaled sup in the house he was. He wandeved it bad weally loves him
7,	How does he relate so his person. He makes firends very quickly
8.	How does he relate to his siplings? I/a For the most point he has been a little over bearing in teasing him.

Mar 10 2012 12:50PM LAMAR GARMAN

Liberty Ridge Farm

Resident Questionnaire

_email	graven graven	ome Phone
ddres	59A	ge
ome hurci	Congregation Belein IV M. h Member Yes No	acous allen + Virginia Miller
	Describe your relationship with God. He feels for	ar ocway
-	Describe your relationship with your father.	c Relationships L'exchange siems,
•	· .	was overbearing.
•	Describe your devotional life. It's not that the many	+ menningful: 3 rying
	List your areas of greatest struggle. natificat f-1	or otherwife.
	List your fews. Gaing to Liberty	
•	Describe your church life. Try oss pretty	y gages
Rebo Othe		Cheerful Dependable
	What happened when you did wrong as a child? 6-0	serman
0.	- A Service of Parent de Service Profession for the Service	colo. begene there it vi
1.	Describe your school life. Ast syrucles a did no	youd enough to pass enjoy it.
	· · · · · · · · · · · · · · · · · · ·	
1	the second second second second second	

EXHIBIT E

In the Matter Of:

D.C. AND R.M. vs.

NELSON MARTIN, et al.

Mark Torkelson

October 19, 2022

HKW, LLC 764 Corporate Circle, Suite 200 New Cumberland, PA 17070 717.214.1182 Schedule@hkwllc.com



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. AND R.M.,

Plaintiffs

vs.

NELSON MARTIN D/B/A

LIBERTY RIDGE FARM, : CIVIL ACTION
LIBERTY RIDGE FARM, : NO: 5:21-CV-05070-JMG
EASTERN PENNSYLVANIA :

MENNONITE CHURCH AND RELATED AREAS, AND MENNONITE MESSIANIC

MISSION OF THE EASTERN PENNSYLVANIA MENNONITE CHURCH,

Defendants :

DEPOSITION OF: MARK TORKELSON

TAKEN BY: PLAINTIFFS

REPORTER: TRACY L. LLOYD, RPR

NOTARY PUBLIC

KYLAN BARRY, VIDEOGRAPHER

OCTOBER 19, 2022, 8:58 A.M. DATE:

PLACE: MARGOLIS EDELSTEIN

214 SENATE AVENUE, SUITE 402

CAMP HILL, PENNSYLVANIA

1	APPEARANCES:	2
2	ANDREOZZI & FOOTE	
3	BY: RENEE E. FRANCHI, ESQUIRE 4503 NORTH FRONT STREET	
4	HARRISBURG, PENNSYLVANIA 17110 (717) 686-9936 Renee@vca.law	
5	For the Plaintiffs	
6	MARGOLIS EDELSTEIN	
7	BY: MEGHAN WYNKOOP, ESQUIRE JOCELYN MENDEZ, ESQUIRE	
8	THE CURTIS CENTER, SUITE 400E 170 SOUTH INDEPENDENCE MALL W.	
9	PHILADELPHIA, PENNSYLVANIA 19106 (215) 922-1100	
10	mwynkoop@margolisedelstein.com	
11	For the Defendants	
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13		
14		
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25		

		3
1	INDEX OF WITNESSES	
2	EXAMINATION PAGE	
3	MARK TORKELSON	
4	By Ms. Franchi 5	
5	By Ms. Wynkoop	
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	А
1	STIPULATIONS 4
2	It is stipulated and agreed by and between
3	counsel for the respective parties that the reading,
4	signing, sealing, and filing of the transcript is
5	waived and that all objections, except as to the
6	form of the question, are reserved to the time of
7	trial.
8	
9	THE VIDEOGRAPHER: Here begins Media
10	Number 1 in the videotaped deposition of Mark
11	Torkelson in the matter of D.C. and R.M. v. Martin, et
12	al, in the United States District Court for the
13	Eastern District of Pennsylvania, Case Number
14	521-CV-05070-JMG.
15	Today's date is October 19th, 2022. The
16	time on the video monitor is 8:58 a.m. The
17	videographer today is Kylan Barry representing Planet
18	Depos. This video deposition is taking place at 214
19	Senate Avenue, Suite 402, Camp Hill, PA, 17011.
20	Would counsel please voice identify
21	themselves and state whom they represent.
22	MS. FRANCHI: I am Renee Franchi with the
23	law firm of Andreozzi and Foote, and I represent the
24	Plaintiffs in this matter.
25	MS. WYNKOOP: Meghan Wynkoop, Margolis

	7
1	5 Edelstein, and I represent the Defendants.
2	MS. MENDEZ: Jocelyn Mendez, Margolis
3	Edelstein, and I represent the Defendants.
4	THE VIDEOGRAPHER: The court reporter
5	today is Tracy Lloyd. Will the reporter please swear
6	in the witness.
7	
8	MARK TORKELSON, called as a witness,
9	being affirmed, testified as follows:
10	
11	MS. FRANCHI: Okay. We will just agree
12	to the same preliminary issues that were put on the
13	transcript first thing yesterday so I can spare
14	counsel from repeating it again and for the next
15	couple days. Is there anything else you think? We're
16	good?
17	MS. WYNKOOP: No. We agree.
18	
19	EXAMINATION
20	
21	BY MS. FRANCHI:
22	Q. Good morning, Mr. Torkelson. My name is
23	Renee Franchi. I represent the Plaintiffs in this
24	matter. I apologize. I'm already losing my voice
25	from speaking all day yesterday. I'm sure by Friday

6 it will be completely gone. I appreciate you being 1 2 with us today. Before we get to case-related questions, 3 4 I need to ask you some preliminary questions just to make sure that you understand the expectations and the 5 rules for the deposition today. 6 7 The first thing is that when I or your attorney asks you a question, you do have to give a 8 9 verbal answer. This is not just a non-verbal response 10 like a head nod or uh-huh or something like that. 11 This is because of the stenographer being here. She's 12 typing down all of the questions and the answers 13 today, and she can only type down verbal responses. 14 So will you be able to make sure that you do give me 15 verbal responses to your questions today? 16 Α. I will try. 17 Next, if you are asked a 0. Thank you. 18 question that you don't understand, that doesn't make 19 sense, whether it be because I worded it confusingly, 20 which has been known to happen, or for any other 21 reason, please feel to say you don't understand the 22 question or ask me to repeat the question, and I can 23 do that for you. Can you do that? 24 Α. I will. In that same light, if you're 25 Okay. Q.

	7
1	asked a question and you do answer with a verbal
2	response, I will assume that you understood the
3	question. Is that fair?
4	A. Yes.
5	Q. Okay. Now, I do expect that we'll be
6	here for a few hours this morning. Attorneys are bad
7	at estimating time, but I don't think it will be too
8	long. But if you do need to take a break at any time
9	to use the restroom, to get something to drink, to
10	stretch your legs, or for any other reason, please let
11	me know. That's perfectly fine.
12	The only restriction is that if you're
13	asked a question, you may not take a break until the
14	question is answered, and then afterwards you may do
15	so. Does that make sense?
16	A. Yes.
17	Q. Now, during this deposition, I may ask
18	you to either estimate or approximate something like
19	time or dates if you do not recall something
20	specifically. Please do not just simply guess at the
21	answer. If you think that you can give a fair
22	estimate or approximation, please let me know and
23	please do so.
24	For example, if I ask you a question
25	about when an event happened and if you don't know the

1	exact date, but you do know a time frame, say, between
2	the years of 2000 and 2004, it's fair to say that you
3	don't remember exactly when this event occurred, but
4	that it happened between those two years?
5	So if you are able to approximate, please
6	let me know. But if you simply do not know or do not
7	remember an answer or an event, please say so. Is
8	that fair?
9	A. Yes.
10	Q. The most important thing today is that we
11	just want you to tell the truth. Is there anything
12	that would prevent you from being able to fully
13	testify to the truth today?
14	A. No.
14 15	A. No. Q. Okay. So I think first we'll be
15	Q. Okay. So I think first we'll be
15 16	Q. Okay. So I think first we'll be starting with some just general background questions.
15 16 17	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd
15 16 17 18	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd like to get to know you a little bit, and then we'll
15 16 17 18 19	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd like to get to know you a little bit, and then we'll get into some more specific questions about the events
15 16 17 18 19 20	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd like to get to know you a little bit, and then we'll get into some more specific questions about the events in this case or the issues that we brought you here
15 16 17 18 19 20 21	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd like to get to know you a little bit, and then we'll get into some more specific questions about the events in this case or the issues that we brought you here for today.
15 16 17 18 19 20 21	Q. Okay. So I think first we'll be starting with some just general background questions. I don't know you. We've never spoken before, so I'd like to get to know you a little bit, and then we'll get into some more specific questions about the events in this case or the issues that we brought you here for today. Do you have any questions for me or for

1	you do in pre	eparation for your deposition today other
2	than speaking	g with your attorney, if anything?
3	Α.	Nothing.
4	Q.	Okay. Did you review any documents?
5	Α.	No.
6	Q.	Okay. And I know earlier you had said
7	your name. 1	But if you could, please for the record
8	today if you	could state your full name?
9	A.	Mark Elton Torkelson.
10	Q.	And how do you spell your last name?
11	Α.	T-o-r-k-e-l-s-o-n.
12	Q.	And what's your date of birth?
13	Α.	1/3/54.
14	Q.	Where were you born?
15	Α.	Cheverly, Maryland.
16	Q.	And have you lived in Maryland your
17	entire life?	
18	A.	Except for one year that I lived in
19	Missouri.	
20	Q.	Okay. And where do you live now?
21	A.	At Keymar, Maryland.
22	Q.	Okay. And what's your address?
23	A.	12029 Simpsons Mill Road.
24	Q.	And who do you live there with?
25	Α.	My wife.

		VV 1012055 1/10111 1/2 11/2 12/2
1	Q.	What's her name?
2		Paula.
3	Q.	Do you have any children?
4	А.	Paula is my second wife, so we have no
5	children.	
6	Q.	Okay. Do you have children from your
7	first marriag	ge?
8	Α.	Yes. I had seven.
9	Q.	Oh, wow. Okay. Are they all adults?
10	Α.	Yes.
11	Q.	Do you have grandchildren?
12	A.	Yes.
13	Q.	A few?
14	Α.	I think it's 24.
15	Q.	Wow. That's great. All right. So what
16	do you do for	a job?
17	Α.	I'm a carpenter.
18	Q.	In Maryland?
19	Α.	Yes.
20	Q.	Do you ever travel interstate or is it
21	generally in	the same area that you live in?
22	Α.	It's generally in the state of Maryland.
23	Q.	Do you own the business or do you work
24	for someone?	
25	Α.	I own the business.

1	Q.	What's it called?
2	Α.	Weathertight Services.
3	Q.	And how long have you worked or owned
4	that company	?
5	A.	It's a company that started in 1979.
6	Q.	Okay. And when did you become involved?
7	At the time	that it started or after?
8	A.	I started it.
9	Q.	You did, okay. What's your education
10	level?	
11	Α.	Through grade 10.
12	Q.	Okay. And then did you receive any sort
13	of graduation	on certificate, GED, anything like that or
14	was it just	through grade 10 and you began working?
15	A.	That's correct.
16	Q.	Okay. And are you would you consider
17	yourself to	be a member of the Eastern Pennsylvania
18	Mennonite Ch	urch or Eastern Pennsylvania Mennonite
19	faith?	
20	Α.	Yes.
21	Q.	And what congregation do you belong to?
22	A.	Hopewell.
23	Q.	And is that down in Maryland?
24	Α.	Yes.
25	Q.	How long have you been a member of that

		12
1	specific con	
2	Α.	It would be since 1968.
3	Q.	Oh, okay. So would it be safe to say
4	then that yo	u've been a part of the Mennonite faith
5	your entire	life?
6	Α.	That is correct.
7	Q.	Have you always been a member of the
8	Eastern Penn	sylvania Church?
9	Α.	No. I was a member at Lancaster
LO	Conference t	o begin with.
L1	Q.	Okay. And then when did you switch over?
L2	Α.	In 1968.
L3	Q.	Okay. So you had mentioned that you own
L 4	the one comp	any. You said it was Weathertight?
L5	Α.	That's correct.
L6	Q.	And what kind of work do you do?
L7	Α.	We build pole barns.
L8	Q.	Okay. And is that the only work you do
L9	or are there	other types of construction or work that
20	you do with	your company?
21	Α.	We also work on the old bank barns.
22	Restore them	·•
23	Q.	Okay. Do you so you do both
24	construction	from basically the ground up, and then
25	you also do	restoration work?

1	Α.	That's correct.
2	Q.	Do you ever do any demolition work?
3	A.	Very little.
4	Q.	Do you have any employees?
5	Α.	No. We're set up as a limited
6	partnership.	
7	Q.	Okay. How many people are involved?
8	Α.	It's approximately five.
9	Q.	Okay. And do you have any financial
10	interests in	any other businesses?
11	A.	Not really, no.
12	Q.	What do you mean by that?
13	A.	Well, I have loaned some money to another
14	young man who	o is starting a business.
15	Q.	Oh, okay.
16	A.	But I don't have any interest in the
17	business.	
18	Q.	Gotcha. That makes sense. And so in
19	that vein, I	would assume then when you don't have any
20	other finance	ial interests in other businesses, you
21	also don't h	ave ownership interest in any other
22	businesses?	
23	A.	That is correct.
24	Q.	Okay. And where do you generally hold
25	your persona	l bank accounts and your work bank

	14
1	accounts? Is it a local bank in the area that you
2	live in or is it somewhere else?
3	A. It's a local bank.
4	Q. Which one is it?
5	A. WesBanco.
6	Q. Okay. And do you own any property?
7	A. Yes.
8	Q. Down in Maryland?
9	A. Yes.
10	Q. Is it just in Maryland?
11	A. Yes.
12	Q. Okay. What would that be? Just your
13	personal property?
14	A. Our personal property.
15	Q. Okay. So I'm going to jump a little bit
16	more specifically into the matters involving this case
17	and specifically involving the Mennonite Messianic
18	Mission which I'm just going to refer to as the
19	Mission so you don't have to hear me stumbling over
20	that through the entire deposition. So if you could,
21	just starting out in your own words what is the
22	Mission?
23	A. It is the body that the church has
24	commissioned to oversee the outreach activities of the
25	church.

	15
1	Q. And are you aware of how long the Mission
2	has been in existence?
3	A. I can give you an approximate date.
4	Q. Sure.
5	A. 1966.
6	Q. Okay. So for some time now?
7	A. Yes.
8	Q. Okay. And has the Mission always been
9	run by a board of directors?
10	A. Yes.
11	Q. And yesterday we spoke with a
12	representative of the Eastern Pennsylvania Church.
13	I'll just refer to it as the EPMC, again, so you don't
14	have to hear me keep stumbling over it throughout the
15	entire deposition. And we learned a little bit
16	yesterday about the kind of governing body of the EPMC
17	and just the general guidance that it gives throughout
18	the community.
19	So as it relates to the Mission, does the
20	Mission receive any guidance from the EPMC at all?
21	A. No.
22	Q. Okay. Are any of the EPMC leaders ever
23	involved in any of the board meetings at the Mission?
24	A. Yes.
25	Q. Okay. And usually when does that occur?

1		
1	Α.	I'm not sure if I understand your
2	question.	
3	Q.	So let me rephrase it. Are there any
4	times when t	the Mission Board asks for guidance from
5	the EPMC lea	ders or seeks their involvement in any
6	matters duri	ng their board meetings?
7	Α.	No.
8	Q.	Okay. And are you currently on the board
9	of directors	3?
10	Α.	Yes.
11	Q.	What's your position?
12	Α.	I'm the secretary.
13	Q.	And what are your duties and
14	responsibili	ties?
15	Α.	To record the proceedings of the board
16	and to sign	any legal documents that need to be
17	signed.	
18	Q.	And how long have you been the secretary?
19	Α.	Since 2013.
20	Q.	And were you on the board before that?
21	Α.	Yes.
22	Q.	What was your position?
23	Α.	I was just an ordinary board member with
24	no position	
25	Q.	Okay.

		_
1	A. $$ for a while, and then I was assistant	.7
2	treasurer.	
3	Q. Okay. And when were you the assistant	
4	treasurer?	
5	A. I'm not really sure of that date.	
6	Q. Was it immediately preceding when you	
7	became secretary? Like did you go from assistant	
8	treasurer to secretary?	
9	A. That is correct.	
LO	Q. Okay. So do you believe that you may	
L1	have been or approximately were the assistant	
L2	treasurer from the years of about 2010 to about 2013	
L3	or at least sometime during then?	
L4	A. Sometime during then, yes.	
L5	Q. Okay. But maybe not the whole time?	
L6	A. Probably the whole time.	
L7	Q. Okay. And what were your duties as the	
L8	assistant treasurer?	
L9	A. Basically nothing.	
20	Q. I appreciate your honesty. What did you	
21	find yourself doing on the board when you were the	
22	assistant treasurer? If you didn't have any real	
23	specific duties, what was your involvement?	
24	A. Just to give the treasurer's report. And	b
25	in the very unlikely event that the treasurer was not	

1	
1	there, he would give me the report, and then I would
2	share it with the board. And so really it was very
3	little that I did.
4	Q. Then otherwise you just acted as a normal
5	board member?
6	A. That's correct.
7	Q. Okay. And who was the treasurer at the
8	time?
9	A. Mervin Martin.
10	Q. And who is the treasurer now?
11	A. Nelson Nolt.
12	Q. And do you know who the treasurer was
13	from about 2010 to about 2014, if you can recall?
14	A. I do not recall.
15	Q. Okay. Would it maybe have been one of
16	those two individuals?
17	A. Probably would have been.
18	Q. Okay. Does your board have any governing
19	documents like bylaws or any rules that govern the
20	conduct of the board?
21	A. Yes, we do.
22	Q. And are you aware of whether those bylaws
23	have been updated or altered in any way since about
24	2010 onward?
25	A. No, they would not have.

1	Q. So I know you had said that the treasurer
2	generally handles the finances, and you are the
3	assistant treasurer and didn't do much in the form of
4	dealing with the treasurer's activities, but tell me a
5	little bit about the business structure of the Mission
6	and where it receives its funding from and financially
7	just how the Mission is structured, if you know.
8	A. The funding that comes to the Mission
9	Board is strictly from congregational offerings and
10	from personal donations.
11	Q. Does the Mission have any business
12	interests?
13	A. No.
14	Q. Okay. Do you know if the Mission has any
15	bank accounts?
16	A. Yes.
17	Q. Where are they held at?
18	A. I don't know.
19	Q. So tell me a little bit more about the
20	duties of the Mission. I know that it kind of
21	oversees a lot of different organizations and
22	different parts of the outreach for the Eastern
23	Pennsylvania Church. But if you could tell me a
24	little bit more about what the Mission does.
25	A. The Mission primarily clears individuals

	20
1	for service in various fields, and in our foreign
2	fields would be responsible for making sure that the
3	fields have the necessary things that they need like
4	church houses, schools.
5	Q. So the Mission oversees work in all sorts
6	of countries, not just here in the United States?
7	A. That is correct.
8	Q. Do you know approximately how many
9	countries it's doing work in now?
LO	A. Eight.
L1	Q. Oh, wow. Okay. Tell me about the
L2	domestic entities or business that the Mission does.
L3	I know obviously that we'll talk a little bit more
L 4	about Liberty Ridge in a bit. But Liberty Ridge
L5	aside, what domestic business is the Mission involved
L6	in?
L7	A. The Mission is not really involved in any
L8	business.
L9	Q. Okay. Does it oversee or has it helped
20	set up any other domestic entities other than Liberty
21	Ridge?
22	A. There would be a Publication Board.
23	There would also be two Bible schools. There would be
24	a rest home committee.
25	Q. And are there any other residential

		21
1	type I do	n't want to say facilities or residential
2	type homes of	r programs other than Liberty Ridge that
3	the Mission	has ever been involved in domestically?
4	A.	No.
5	Q.	Okay. So I'm going to get a little bit
6	more into Li	berty Ridge now. And if there's anything
7	that I'm	any road I'm going down or any questions I
8	ask that you	don't know or you feel that somebody else
9	is better su	ited to answer those questions, please let
10	me know. I	don't want to go down a whole line of
11	questions who	ere you're just going to keep telling me I
12	don't know.	I'll save you the time from that.
13		So were you on the board at the Mission
14	when the boa	rd first began discussing creating the
15	Liberty Ridge	e?
16	Α.	Yes.
17	Q.	Do you remember about when that was?
18	Α.	Not exactly.
19	Q.	When do you believe it may have been?
20	Α.	I believe it may have been in 2009 to
21	2010.	
22	Q.	How did that discussion first come up?
23	A.	It first came up because of the needs of
24	young men fo	r more structure in their lives and young
25	men that need	ded help.

Q. And within the discussion of the board,
when you talk about the needs of young men or young
men that need help, could you elaborate a little bit
more just about what needs these are or what kind of
help it was believed that these men needed?
A. It would have been primarily in their
spiritual lives.
Q. What do you mean by that?
A. Some of these young men were rebellious
and not manageable at home and not getting along with
their peers and just simply very unstructured.
Q. Were these concerns that were brought to
the board by any individual people or was it from the
congregations or was it just a general sense within
the community? If you could just elaborate on that a
little bit.
A. I think it would have been a general
sense within the committee, I mean within the
community.
Q. Okay. So once the discussion began in
the board, how quickly did the, I guess, creation of
Liberty Ridge come about? Was it discussed at length
for quite some time and then began implementing some
more ideas or how did that discussion work, if you
remember?

1	A. First of all, there was a committee
2	appointed to see if they could meet those needs by
3	just soliciting individual homes to care for these
4	boys. And so they tried that for a while. I'm not
5	sure exactly how long.
6	Q. And when you say soliciting homes, do you
7	mean like actual homes of members of the church
8	community?
9	A. That's correct.
10	Q. Okay. And when you say soliciting homes,
11	was the committee just simply asking other community
12	members if they'd be willing to house these young men
13	or what do you mean by that?
14	A. That's correct.
15	Q. Okay. So you have that binder that's in
16	front of you. I printed out all the documents in this
17	case. They're all numbered. Their pages are all
18	numbered. I figured that would be easier than handing
19	documents back and forth.
20	So I'm going to have you turn to Page 86.
21	It's LRF-86, and it's probably about halfway through
22	the book. I'll give you a second to get to it. If
23	you could just let me know when you get there. And
24	now that I'm looking back, I probably should have
25	tabbed the pages. It would be Page 86.

_		24
1	Α.	Yes. Oh, 86. I'm sorry.
2	Q.	No. That's okay.
3	Α.	I'm at 186.
4	Q.	Now I'm thinking I should have put like
5	tabs, but it	didn't even occur to me.
6		MS. WYNKOOP: This has been pretty great,
7	though. No	complaints here.
8	BY MS. FRANC	HI:
9	Q.	So I see you've turned to Page 86 in the
10	documents.	Do you recognize what this document is, if
11	not specific	ally, then generally?
12	Α.	Yes, I do.
13	Q.	And what is this document?
14	Α.	This would have been minutes from the
15	Mission Boar	d.
16	Q.	Okay. And is this generally how the
17	minutes of t	he Mission Board are kept during meetings?
18	Α.	That is correct.
19	Q.	Okay. Do you recall, and I believe the
20	date on this	document is June 2nd, 2010. I see at the
21	bottom that	the names of the secretary and assistant
22	secretary.	Are those the individuals who likely would
23	have been th	e ones keeping the minutes at the time?
24	Α.	That is correct.
25	Q.	Okay. And I just want to make sure. At

1	the top of the page of this and the next pages until
2	Page 95 it says custom pole buildings, and there's a
3	date. That isn't part of the minutes; correct? That
4	looks like it would have been something that would
5	have been either printed or scanned on the documents?
6	A. I don't understand your question.
7	Q. At the very top of the page here where it
8	says custom pole buildings, I just want to make sure
9	that that's not a part of the actual minutes. That
LO	looks like it was just transposed onto the page?
L1	A. That is correct.
L2	Q. Okay. Is that your business or were you
L3	the one who compiled these documents or is that
L 4	somebody else?
L5	A. No. That is my business. I did not
L6	compile these documents.
L7	Q. Okay. Were you involved in printing I
L8	just want to make sure I know what's on the page and
L9	what isn't on the page that is part of what this is.
20	So that would have been then where it says here
21	12/19/21, you had somehow worked with either
22	transmitting or moving these documents from one place
23	to another, maybe your attorney?
24	A. Apparently that was the case.
25	Q. Okay. So I want to go about two thirds
	1

	26
1	down the page where it says boys home, specifically it
2	says it was reported that the committee working on
3	this interest will be at the next MMM meeting.
4	Is that what you were saying earlier then
5	about how there was a committee that was kind of put
6	together to look into either creating the boys home or
7	housing these young men with spiritual needs in other
8	homes?
9	A. That is correct.
10	Q. Okay. So I'm going to turn to the next
11	page. It would be Page 87, and this looks like the
12	minutes from June 29th, 2010. And I see now it says
13	boys home committee.
14	So, again, is this just going in the same
15	vein where you put a committee together to kind of
16	just look into the needs of the community with either
17	a boys home or placing these young men with other
18	families?
19	A. My feeling at this point is that they
20	were moving from the mode of trying to do this with
21	individual homes to feeling that maybe should be an
22	institution.
23	Q. Okay. So when it says investigative
24	committee, is that what it would be referring to?
25	A. That is correct.

Q. Okay. So at this point it doesn't seem
like they were sold on the idea of a boys home yet.
They were just kind of leaning in that direction?
A. That is correct.
Q. So I see the next page, Page 88, looks
like a meeting on August 3rd of 2010. About two
thirds of the way down the page where it says boys
home, it says that there is a committee established,
and it lists some names. Ethan Weaver, Lamar Garman,
Nelson Martin, Scott Martin, and Jacob Brubaker.
Does that seem correct as the committee
of individuals who were kind of investigating and
looking into starting a boys home?
A. I think that is correct.
Q. Okay. Do you recall or do you have any
knowledge of how those individuals were selected?
A. They were probably appointed by the
Mission Board to do that and would have been selected
on the basis that they had some personal interest in a
project like that.
Q. Okay. Do you recall and, again, if
you don't remember, please let me know. Do you recall
whether there was any selection process like they
accepted resumes or did they just it was kind of
put out generally in the community that you were

1	looking for someone to engage in this? Do you
2	remember the process at all?
3	A. I do not remember any process like you
4	described.
5	Q. Okay. And all of the members of the
6	Mission Board and I apologize, I can't recall if I
7	asked this before are all members of the EPMC in
8	some congregation or another?
9	A. That is correct.
10	Q. Okay. And then all of the men that are
11	in this investigative committee for the boys home,
12	would they also all be members of the EPMC in some
13	form or fashion, maybe not in the same congregation,
14	but somewhere?
15	A. That is correct.
16	Q. Okay. Do you recall whether any of the
17	individuals from the investigative committee were sent
18	to any other homes or properties to, I guess, look
19	into other boys homes and how they were run to kind of
20	fashion Liberty Ridge after?
21	A. That would have been at their own
22	choosing if they did such a thing. We would not have
23	given any directive to that that I remember.
24	Q. I guess you kind of anticipated my next
25	few questions then. With the committee, did the

_	
1	committee have any direction or oversight from the
2	Mission or was their job to go and work amongst
3	themselves and then come back and report their
4	findings to the Mission?
5	A. They were to investigate and then come
6	back and report their findings, but we didn't
7	specifically tell them to go to other boys homes.
8	Q. Okay. So would it be safe to say then
9	you just gave them a task and a goal and said, you
10	know, go figure it out and then let us know what you
11	found?
12	A. That is correct.
13	Q. Okay. I'm going to turn to the next
14	page, Page 89, where it talks about the purchase of a
15	property under the boys home notation. Do you know if
16	that purchase of the property it's referring is the
17	current Liberty Ridge location?
18	A. It is.
19	Q. Okay. Do you know who it was that
20	purchased the property?
21	A. It would have been the Mission Board.
22	Q. Okay. So the Mission Board would have
23	purchased the property?
24	A. That is correct.
25	Q. Okay. Does the Mission Board currently

	30
1	own the property?
2	A. I'm not sure about that.
3	Q. Okay. So you don't know if it changed
4	hands at all?
5	A. I'm not sure about that.
6	Q. Okay. Moving on to the next page, Page
7	90, it talks about under the boys home notation on
8	December 28th, 2010, that it was noted that township
9	approval set the maximum age at 18 for residents in
LO	the program. Was the original discussion to also
L1	include residents above the age of 18?
L2	A. I don't remember any discussion like
L3	that.
L 4	Q. Okay. Do you know what types of
L5	approvals were sought from the township?
L6	A. I cannot be sure of that.
L 7	Q. Okay. And, again, you may not know the
L8	answers to these questions, but do you know if there
L9	were any other governmental or agency approvals or
20	licensure that was sought out when creating Liberty
21	Ridge?
22	A. I do not know that.
23	Q. Okay. Do you know or was there any
24	discussion amongst the Mission Board of any
25	consultations with psychological or medical

1	31 professionals as it relates to the treatment at this
2	boys home?
3	A. I'm not sure that I understand that
4	question.
5	Q. Were there any discussions amongst
6	yourselves when discussing the creation of the boys
7	home whether there would be any sort of medical
8	treatment or psychological treatment or at least a
9	consultation with a psychological professional in
10	developing the home?
11	A. I do not remember any of that on the
12	board level.
13	Q. Okay. So I'm going to turn to the next
14	page, Page 91. And this time I'll take you closer up
15	to the top of the page. It looks like the minutes
16	from November 29th, 2010, and I see here personnel for
17	approval were shared as follows, and it has a list of
18	house parents and a list of mentors.
19	Were these individuals that were brought
20	to the Mission Board from the Liberty Ridge committee
21	or was the Mission Board involved in the selection of
22	these individuals?
23	A. They were brought to the Mission Board
24	from the boys home committee.
25	Q. Okay. So the Mission Board didn't seek

	2.0
1	these people out?
2	A. No.
3	Q. Okay. Do you or did you have any prior
4	interaction with or knowledge of the individuals
5	listed for the house parents?
6	A. In what way?
7	Q. If you knew them personally, had any
8	business dealings with them before. I see here that
9	at least one of them, Ethan Weaver, I believe was on
10	the committee, so you were likely familiar with him
11	before, but did you know any of the other individuals
12	listed?
13	A. Some of them I would have known, not all
14	of them personally.
15	Q. Okay. And who are the individuals that
16	were known to you previously?
17	A. Fred Miller, David Meck, Timothy
18	Newswanger, Raymond Martin. Maybe Leroy Allgyer in a
19	very limited way.
20	Q. And when you say that you knew of them,
21	were these people that you either did business with
22	and knew personally or just knew of them generally?
23	A. Just knew of them generally.
24	Q. Okay. Do you know if there was any
25	selection process in indicating these individuals by

1	the committee or was that not something you were
2	involved in?
3	A. It was not something I was involved in.
4	Q. Okay. And on the next page, Page 92,
5	where it says Liberty Ridge, where it says approval is
6	requested for the following for house parents Marlin
7	Mussers, Raymond Siegrists, Earl is it Gehmans? I
8	cannot read that. And Marlin Weavers.
9	Are these other individuals who acted as
LO	house parents or were just deemed to be fit to be
L1	house parents, if you know?
L2	A. They were just deemed to be fit for house
L3	parents.
L 4	Q. Okay. And we'll move on to the next
L5	page, Page 92, specifically under boys home where it's
L6	Line Item E where it talks about the committee
L7	presented a proposal from Snyder Gates, LLC, that
L8	would allow them to set up the shop to manufacture
L9	fiberglass farm gates incorporating the labor of the
20	Liberty Farm residents.
21	Were you involved in any discussions
22	about incorporating the labor of these boys for
23	third-party businesses?
24	A. I do not recall that.
25	Q. Okay. Would this have been something

	34
1	that the committee came up with a proposal and then
2	presented it to the Mission Board?
3	A. That is correct.
4	Q. Okay. And it says a motion carried to
5	allow them to use this and enter into a one-year
6	agreement. So would it be safe to say then the
7	committee brought this idea to the board, and the
8	board approved it?
9	A. That is correct.
LO	Q. Okay. Did the board when you were
L1	involved have any other discussions involving the uses
L 2	of Liberty Ridge for any reason for any business
L3	purpose or any other reason?
L 4	A. Not that I remember.
L5	Q. Okay. Do you know of the business Snyder
L6	Gates, LLC? Are you familiar with them at all?
L7	A. Not really.
L8	Q. Okay. Do you know who owns it or who's
L9	involved in the business?
20	A. I do not.
21	Q. Okay. Are you aware in any way of how
22	Snyder Gates was contracted with or how its business
23	arrangements were set up with Liberty Ridge?
24	A. No. I do not know that.
25	Q. Okay. Are you familiar with and I'm

	35
1	just going to list a few business names that have come
2	up generally in discovery with counsel so far in this
3	case.
4	Are you familiar with any other business
5	that have done business with Liberty Ridge such as
6	Sensenig Chair Shop, Clark's Feed Mills, Wengerd
7	Pallet Company, or Dutch-Way Farm Market?
8	A. I would be a little bit familiar with
9	Wengerd Feed Mills, and what was the other names that
10	you gave?
11	Q. There's Clark's Feed Mills, Wengerd
12	Pallet Company, and Dutch-Way Farm Market.
13	A. Yeah, the Wengerd Pallet Company.
14	Q. And how were they known to you?
15	A. Just by name.
16	Q. Okay. You don't have any business
17	dealings or any financial interests in that company?
18	A. No.
19	Q. Okay. Do you know who owns it?
20	A. No, I do not.
21	Q. Are you aware personally of any other
22	businesses that from 2011 or about then when Liberty
23	Ridge began to the present that has done any business
24	at Liberty Ridge at all?
25	A. Not other than the two that we talked

	36
1	about.
2	Q. Okay. Are you aware of any training that
3	was given to any staff of Liberty Ridge?
4	A. What kind of training are you talking
5	about?
6	Q. Any.
7	A. No. I'm not really aware of that.
8	Q. Okay. Was that something that was
9	discussed at all during the Mission meetings?
10	A. I don't recall that it was.
11	Q. Are you aware of whether there was any
12	advertising or any publications put out to, I guess,
13	solicit residents for Liberty Ridge at any point?
14	A. No. There would not have been.
15	Q. So that would, I guess, go into the next
16	few questions. Are you aware of how people within the
17	community came to know of Liberty Ridge? Was it just
18	word of mouth? Was it preached at congregations? How
19	would that have worked, if you know?
20	A. I think it mostly would have been by word
21	of mouth.
22	Q. Okay. And do you know how Liberty Ridge
23	was being described or told to people what it would
24	have done for these boys?
25	A. I don't recall of anything of that nature

1	other than to help young men.
2	Q. Okay. Was there any discussion with you
3	or with the Mission Board about the structure of the
4	programming at Liberty Ridge?
5	A. Not in a specific way.
6	Q. Okay. Generally, how was it brought up,
7	if at all?
8	A. They would have mostly formed their own
9	structure.
10	Q. Okay. And then just told the Mission
11	about it?
12	A. That's correct.
13	Q. Okay. So is it safe to say then the
14	committee would bring the general ideas of the program
15	to the Mission Board, and as long as it didn't sound
16	outrageous in any way, say that sounds okay?
17	A. That is correct.
18	Q. Okay. Do you know whether there is any
19	discussions about a number of work hours for the
20	residents or whether there was any consultation with
21	agencies like the Department of Labor or anything like
22	that?
23	A. I'm not aware of that.
24	Q. Okay. Was there any discussion about the
25	price of the programing, whether parents would be

	38
1	paying a certain amount of money in or anything like
2	that?
3	A. No, not on the Mission Board level.
4	Q. Okay. So I guess at the end of the day,
5	now moving forward, Liberty Ridge is now open. What
6	is the Mission's involvement once Liberty Ridge is now
7	its own entity?
8	A. The only involvement that we would have
9	would be in approving personnel to serve there.
10	Q. Okay. And what do you mean by that?
11	A. The committee would bring names for house
12	parents or mentors, and we would approve or
13	disapprove.
14	Q. Okay. And now that when I say now
15	that Liberty Ridge is open, I'm saying, you know, from
16	2011 and onward. So once Liberty Ridge is opened, did
17	they report to the Mission Board in any way? Like did
18	they give, you know, a report at board meetings or was
19	there any other type of oversight?
20	A. They would have given a report at board
21	meetings if they had anything that they wanted to
22	request.
23	Q. Okay. And when you say anything they
24	want to request, what do you mean by that?
25	A. Personnel.

1	Q. Okay. Was there any involvement with the
2	Mission Board with funding in any way of Liberty
3	Ridge?
4	A. The Mission Board would have purchased
5	the farm to begin with to give them a place to
6	operate.
7	Q. Okay. Is the Mission Board or was the
8	Mission Board involved in any way with the actual
9	business entity generally of Liberty Ridge other than
10	the ownership of the property?
11	A. No.
12	Q. Okay. Did the Mission Board give Liberty
13	Ridge any direction that was unsolicited by Liberty
L4	Ridge? Like say you told me earlier that Liberty
15	Ridge would report to the Mission Board and ask you
16	know, they would ask for certain things. But was
17	there any point where the Mission Board would take the
18	first step to say you need to do X, Y, and Z?
19	A. I do not recall anything like that.
20	Q. Okay. Have you personally been to the
21	Liberty Ridge property?
22	A. Yes, I have.
23	Q. Okay. How many times?
24	A. I do not know.
25	Q. Would it be more than two? More than

			40
1	ten?	Less t	han ten?
2		Α.	More than ten.
3		Q.	Okay. And when would that have been
4	gener	ally ov	er a time frame?
5		Α.	Sporadic.
6		Q.	Okay. Do you know if other Mission Board
7	membe	rs have	been to the Liberty Ridge property?
8		Α.	I would think that most of them probably
9	have	been.	
LO		Q.	Was there any direction from the Mission
11	Board	to vis	it the Liberty Ridge property for any of
12	its m	embers?	
13		Α.	No.
L4		Q.	Okay. So it would be safe to say then
15	that	if any	Mission Board members went to the
16	prope	rty, it	was on their own, I guess on their own
17	volit	ion?	
18		Α.	That's correct.
19		Q.	Okay. When you went to the Liberty Ridge
20	prope	rty, di	d you give them any direction or make any
21	decis	ions fo	r them or was it purely as an observer?
22		Α.	It was purely as an observer for the most
23	part.		
24		Q.	Okay. And when you say for the most
25	part,	were t	here any other times that you weren't just

		41
1	observing that	at you were involved in any way?
2	A.	In the very beginning I was assigned to
3	help them to	get started with the work.
4	Q.	Okay. What do you mean by that?
5	A.	It was mostly administrative things.
6	Q.	Okay.
7	A.	Structuring the committee and structuring
8	the work.	
9	Q.	Okay. Did that involve any financial
10	reports or lo	edgers or anything like that?
11	A.	No.
12	Q.	Okay. It was just general guidance?
13	A.	That's correct.
14	Q.	Okay. Has your personal business ever
15	done any bus	iness with Liberty Ridge?
16	A.	No.
L7	Q.	Okay. Are you familiar with the
18	corporate fi	ling of Liberty Ridge and specifically the
19	registration	of the Liberty Ridge name and the
20	corporate do	cuments?
21	A.	No.
22	Q.	Do you know if any of the other Mission
23	Board member	s, either past or present, were involved
24	in any way w	ith a financial interest in Liberty Ridge,
25	any labor the	at was there, or any business interest?

1	A. No.
2	Q. Are you personally related to anyone
3	that's on the Liberty Ridge board currently?
4	A. No.
5	Q. Or past?
6	A. No.
7	Q. Okay. Do you know this may be outside
8	of your knowledge what is the involvement of any
9	individual congregations within the EPMC with Liberty
10	Ridge? Is there any?
11	A. No.
12	Q. Okay. I know we heard yesterday in
13	testimony that within individual congregations that
14	sometimes I forget. It wasn't the word solicit.
15	There was another word that was used for obtaining
16	donations from people that sometimes they would say
17	this week we're asking for donations for improvements
18	to the congregation or next week it will be for the
19	Mission Board.
20	Do you know was the Mission Board ever
21	directly asking any individual congregations for
22	money?
23	A. No.
24	Q. Okay. So you wouldn't know if Liberty
25	Ridge had ever done that?

		43
1	Α.	Not that I'm aware of.
2	Q.	Okay. Is Liberty Ridge making any
3	payments to	the Mission Board, say, for use of the
4	property? A	nything like that?
5	Α.	No.
6	Q.	Did they ever, if you know?
7	Α.	The only thing that they would have done
8	would have b	een if congregations voluntarily lifted an
9	offering for	·
10	Q.	Lifted an offering, okay. That was the
11	term I was l	ooking for.
12	Α.	To help the expense.
13	Q.	Okay.
14	A.	To repay the loan.
15	Q.	Okay.
16	Α.	Some of those offerings may have been
17	sent to Libe	erty Ridge.
18	Q.	Okay.
19	A.	They would have then taken it and sent
20	those offeri	ngs to the Mission Board because the
21	Mission Boar	d was the one who supplied the funds to
22	buy the farm	to begin with.
23	Q.	Okay. So that would have been the only
24	financial, I	guess, going back and forth between the
25	two entities	?

1	A. That is correct.
2	Q. Okay. Is that would it be considered
3	in the form of a loan or was it more casual in that
4	when you get money in, just pay it back to the Mission
5	Board when you have it from, say, these donations from
6	congregation members?
7	A. I'm not sure if I understand your
8	question.
9	Q. I guess when it comes to the property
10	being owned by the Mission Board that Liberty Ridge is
11	operating on, was it structured in a sense of like
12	this is a loan, you need to pay us this much money
13	every month, or was it more casual in that if
14	donations came in, then it would just go to the
15	Mission Board to help offset that payment?
16	A. There was nothing structured as far as
17	repaying the loan.
18	Q. Okay.
19	A. It was only a general understanding that
20	if offerings would come that were to pay toward the
21	farm, that those would be sent back to the Mission
22	Board.
23	Q. Okay. Were you aware of any of the work
24	that was done on Liberty Ridge such as there was
25	there were crops that were being harvested. There

	45
1	were pallets being built, things like that. Were you
2	generally aware of the type of work that was being
3	done?
4	A. Generally.
5	Q. Okay. Was it anything that was brought
6	to your attention in the capacity of being a board
7	member or was it more just you heard about it and were
8	aware?
9	A. Just heard about it and was aware of it.
LO	Q. Okay. Does Liberty Ridge in any way have
L1	to report its finances or report its profits or
L 2	business or anything like that to the Mission Board?
L3	A. No, they do not.
L 4	Q. Okay. So I guess in a bird's eye view of
L5	the Mission Board's current or from 2011 when it was
L6	created to the present involvement with Liberty Ridge,
L 7	does Liberty Ridge have to report any certain things
L8	to the Mission Board or is it just what they feel they
L9	should report at the time?
20	A. If they want to make any expenditure over
21	\$5,000, then they would need to get approval from the
22	Mission Board for that.
23	Q. Okay. And why is that?
24	A. Just a system of checks and balances.
25	Q. Okay. Do you know if Liberty Ridge makes

	46
1	any income reports, files tax returns, anything like
2	that?
3	A. I'm not aware of that.
4	Q. Okay. When you say Liberty Ridge has to
5	report any expenditures over \$5,000, do they ever have
6	to report any certain profits or income coming into
7	the program?
8	A. No.
9	Q. Okay. Are you personally familiar with
LO	or have you met either of our clients either David
L1	Cross or Robert Miller?
L2	A. I am not familiar with them.
L3	MS. FRANCHI: Okay. All right. I think
L4	if we could maybe take like a ten-minute break. I
L5	think I'm probably going to be done soon. I just want
L6	to take a look at everything and then if you have any
L7	questions after that.
L8	MS. WYNKOOP: Sure.
L9	THE VIDEOGRAPHER: We are going off the
20	record at 9:47 a.m.
21	(Recess)
22	THE VIDEOGRAPHER: We are going back on
23	the record. The time is 9:58 a.m.
24	BY MS. FRANCHI:
25	Q. All right. So I only have a few more

	47
1	questions for you. I was hoping that you could
2	explain to me a little bit better about why is it that
3	the Mission has any sort of oversight over Liberty
4	Ridge.
5	And what I mean by that is once Liberty
6	Ridge became its own entity, why is it that the
7	Mission has any oversight over it at all?
8	A. I think it would be primarily because we
9	feel that it's good for any committee to have a checks
10	and balance arrangement where somebody would be
11	overseeing it even if it's just in a general way.
12	Q. Okay. And when you say checks and
13	balances, what is it that you're kind of making sure
14	that you keep an eye on?
15	A. The personnel that they would use and the
16	funds that are being used.
17	Q. And why is it that you or the Mission
18	Board feels that those types of things need to be
19	there needs to be an eye kept on them, and I mean that
20	in that, you know, other business or non-profits kind
21	of report to their own individual governing structure.
22	So why is it that the Mission Board oversees these
23	other entities, Liberty Ridge or any of the other ones
24	within the community?
25	A. I suppose it's just because that's the

48 1 way we got started and doing it. 2 0. Okav. Does it have anything to do with making sure it's also -- these organizations are kind 3 of working within the guidelines of the Eastern 4 Pennsylvania Church or are there other reasons? 5 Could you be more specific? 6 Α. 7 0. I quess what I'm trying to get at Yeah. is, you know, what is it that makes Liberty Ridge or 8 9 any of the other organizations overseen by the 10 Mission, why is it that they need this oversight for 11 checks and balances? Is it to adhere to certain 12 standards? Is it just to make sure that it's 13 following certain guidelines? I want to understand a little bit better about how -- how that works. 14 15 I wouldn't say that it's because we feel 16 that there's a need for it as far as being suspicious 17 of any particular thing. It's just probably the way 18 that we do these type of things that somebody knows in 19 a general way what's going on. 20 Q. Okay. 21 Α. What's happening. 22 And I know we learned or at least I 0. 23 learned a little bit more yesterday just about the 24 EPMC in general, and that it's not really an organization in that it doesn't have an office or a 25

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1	bank account or anything like that. It's kind of a
2	nebulous association of the congregations.
3	So because of that, does the Mission then
4	kind of take on that role because it is an
5	organization to make sure that these institutions
6	within the church are kind of, I guess, acting
7	appropriately?
8	A. The mandate of the Mission Board is that
9	it's the official organization that is looked to for
LO	help whenever help is needed.
L1	Q. Okay.
L2	A. And so if it's a church wide program,
L3	then it would in a certain manner be under the Mission
L 4	Board.
L5	Q. Okay.
L6	A. But not in any other way that I can think
L7	of.
L8	MS. FRANCHI: Okay. Okay. I think that
L9	is probably everything that I have to ask today. I
20	don't know if you have any follow-up questions or
21	anything?
22	MS. WYNKOOP: No.
23	MS. FRANCHI: All right.
24	THE VIDEOGRAPHER: This marks the end of
25	the deposition of Mark Torkelson. We are going off

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     the record at 10:02 a.m.
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                     (The deposition was concluded at 10:02
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     a.m.)
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1	COMMONWEALTH OF PENNSYLVANIA)) SS.	31
2	COUNTY OF YORK)	
3	T The grant I blood a Dog grant and	
4	I, Tracy L. Lloyd, a Registered Professional Reporter and Notary Public in and for	
5	the Commonwealth of Pennsylvania and County of York, do hereby certify that the foregoing testimony was taken before me at the time and place	
6	hereinbefore set forth, and that it is the testimony of:	
7	cestimony of.	
8	MARK TORKELSON	
9	T. Garathana arasti Garathan araid aritarana	
10	I further certify that said witness was by me duly sworn to testify the whole and	
11	complete truth in said cause; that the testimony then given was reported by me stenographically, and subsequently transcribed under my direction and	
12	subsequently transcribed under my direction and supervision; and that the foregoing is a full, true and correct transcript of my original shorthand	
13	notes.	
14	I further certify that I am not counsel for nor related to any of the parties to	
15	the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject	
16	matter or outcome thereof.	
17	Dated at York, Pennsylvania, this 1st day of November, 2022.	
18	Macy Macy	
19		
20	Tracy L. Lloyd, Notary Public	
21	Registered Professional Reporter	
22	(The foregoing certification does not apply to any	
23	reproduction of the same by any means unless under the direct control and/or supervision of the	
24	certifying reporter.)	
25	My Commission expires: April 21, 2023	
	<u>,</u>	

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EXHIBIT F

In the Matter Of:

D.C. AND R.M. vs.
NELSON MARTIN, et al.

Gerald Nolt

October 19, 2022

HKW, LLC 764 Corporate Circle, Suite 200 New Cumberland, PA 17070 717.214.1182 Schedule@hkwllc.com



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. AND R.M.,

Plaintiffs

vs.

NELSON MARTIN D/B/A

LIBERTY RIDGE FARM, : CIVIL ACTION
LIBERTY RIDGE FARM, : NO: 5:21-CV-05070-JMG
EASTERN PENNSYLVANIA :

MENNONITE CHURCH AND

RELATED AREAS, AND MENNONITE MESSIANIC MISSION OF THE EASTERN PENNSYLVANIA MENNONITE

CHURCH,

Defendants :

DEPOSITION OF: GERALD NOLT

TAKEN BY: PLAINTIFFS

REPORTER: TRACY L. LLOYD, RPR

NOTARY PUBLIC

KYLAN BARRY, VIDEOGRAPHER

OCTOBER 19, 2022, 11:12 A.M. DATE:

PLACE: MARGOLIS EDELSTEIN

214 SENATE AVENUE, SUITE 402

CAMP HILL, PENNSYLVANIA

1	APPEARANCES:	2
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12	ror the berendants	
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	1 A
1	STIPULATIONS 4
2	It is stipulated and agreed by and between
3	counsel for the respective parties that the reading,
4	signing, sealing, and filing of the transcript is
5	waived and that all objections, except as to the
6	form of the question, are reserved to the time of
7	trial.
8	
9	THE VIDEOGRAPHER: Here begins Media
LO	Number 1 in the videotaped deposition of Gerald Nolt
L1	in the matter of D.C. and R.M. v. Martin, et al, in
L2	the United States District Court for the Eastern
L3	District of Pennsylvania, Case Number
L4	521-CV-05070-JMG.
L5	Today's date is October 19th, 2022. The
L6	time on the video monitor is 11:12 a.m. The
L7	videographer today is Kylan Barry representing Planet
L8	Depos. This video deposition is taking place at 214
L9	Senate Avenue, Suite 402, Camp Hill, PA, 17011.
20	Would counsel please voice identify
21	themselves and state whom they represent.
22	MS. FRANCHI: I'm Renee Franchi with the
23	law firm of Andreozzi and Foote, and I represent the
24	Plaintiffs in this matter.
25	MS. WYNKOOP: Meghan Wynkoop, Margolis

	5
1	Edelstein, and I represent the Defendants.
2	MS. MENDEZ: Jocelyn Mendez, Margolis
3	Edelstein, and I represent the Defendants.
4	THE VIDEOGRAPHER: The court reporter
5	today is Tracy Lloyd. Will the reporter please swear
6	in the witness.
7	
8	GERALD NOLT, called as a witness, being
9	affirmed, testified as follows:
10	
11	MS. FRANCHI: May we begin?
12	THE VIDEOGRAPHER: Yes.
13	MS. FRANCHI: Okay. Once again, same
14	preliminary matters as put on the first transcript
15	yesterday morning with Ethan Weaver will be the same
16	for now; correct?
17	MS. WYNKOOP: Correct.
18	MS. FRANCHI: Okay.
19	
20	EXAMINATION
21	
22	BY MS. FRANCHI:
23	Q. It's still morning. Good morning,
24	Mr. Nolt. Thank you for coming in today. Again, my
25	name is Renee Franchi. I represent the Plaintiffs in

6 this matter, David Cross and Robert Miller. 1 We 2 appreciate you coming in today. 3 I am slowly losing my voice as I've been talking for a day and a half now, so I apologize if I 4 start coughing or I've been drinking water the whole 5 time. 6 7 Before I start with my questions relating to the actual case, we have to go through just some 8 9 preliminary matters that unfortunately counsel has now heard me say this for the fourth time just so that you 10 11 know the expectations and the rules for giving a 12 deposition. 13 So the first thing I'd like to go over is 14 that when I or your attorney, if she does, ask you any 15 question, you have to give verbal answers. This means 16 not just nodding or shaking your head. Even though there is a video camera, we have a stenographer here 17 18 taking down the testimony. So make sure that when you 19 do respond, it's an audible verbal answer and not like 20 mm-hmm or something like that. So will you be able to 21 do that today? 22 Α. Yes. 23 And you'd be surprised at how many 0. Okav. 24 say uh-huh, but it's not a trick question. I swear. So next, if you're asked a question that you don't 25

1	understand or if it didn't make sense for any reason
2	whatsoever whether it be because I worded it
3	confusingly or I mumbled or for any other reason,
4	please feel free to tell me that you don't understand
5	or ask me to repeat it or ask me to rephrase a
6	question. I can certainly do that for you. Can you
7	do that today?
8	A. Yes.
9	Q. Okay. So in that same light, if you are
10	asked a question and you do answer the question with a
11	verbal response, then I will assume that you
12	understood the question. Is that fair?
13	A. Yes.
14	Q. Okay. So I expect that we'll be here for
15	maybe a few hours. I don't anticipate it taking more
16	than that, but I always say that attorneys are
17	notoriously bad at estimating time, so don't take me
18	at my word.
19	So if you do need a break at all, I know
20	we mentioned taking a lunch break for a little bit,
21	but if you do need to stand up, stretch your legs, get
22	something to drink, use the restroom at any point,
23	that's totally fine. Just let me know, and we can
24	take a break.
25	The only restriction is that if I ask you

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Witness Gerald Nolt

8 a question and the answer is pending and that you haven't answered yet, we ask that you answer the question and then say I need to take a break. Α. Okav. So is that fair? Q. Α. Understood. Okay. So at some point during the 0. deposition I may ask you to estimate or approximate like a date or a time frame or something to that Please don't simply guess or take a stab in the dark. That's not what I want. But if there's something that you think you can give a fair estimation or approximation, please do so. For example, if I ask you about a certain event or a certain thing that happened and you say, you know, I know that it happened between the years of 1990 and 1995, please just let me know that you are estimating it's between this time, but you don't know That's perfectly fair. the exact date. But if you simply do not know or do not remember, please let me know. Can you do that today? Α. Yes. And the last thing, the most 0. Okay. important thing is we just ask that you tell the truth today. That's all we want. If you cannot answer

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Witness Gerald Nolt

9 something truthfully or you don't know, just let us know. Is there anything that would prevent you from being able to fully testify to the truth today? Α. No. So I'm going to start with just 0. Okay. some general background questions. I don't know you. We've never spoken before, so I'll just get to know you a little bit, and then we'll move into generally more specific questions pertaining to this specific Your attorney may or may not have some questions when I'm done. But with that being said, do you have any questions before we start? Α. No. So first, what, if anything, did 0. Okav. you do to prepare for your deposition today other than speaking with your attorney? You don't need to tell me about that. I prayed about it. Α. Q. Okay. Did you review any documents? Α. No, I did not. So as your attorney pointed out, 0. there is a binder in front of you. I may be referring to it at some point to look at some documents. They are all numbered down on the bottom right-hand corner

		10
1	of each page	
2		So when I do refer to a page, I'll let
3	you know the	number. I'll give you some time to flip
4	to it and lo	ok it over, and then you can just let me
5	know if you'	re done or if you found it. If you ever
6	need more time	me, again, please let me know. I want to
7	make sure tha	at we get all the questions answered, and
8	that you're	comfortable, and everything is going well,
9	so all right	•
10		I know that we had mentioned your name at
11	the beginning	g. But if you could, just for the record
12	what is your	full name?
13	A.	Gerald H. Nolt.
14	Q.	And how do you spell your last name?
15	A.	N-o-l-t.
16	Q.	What's your date of birth?
17	A.	11/26/65.
18	Q.	Where were you born?
19	A.	Lancaster County.
20	Q.	In Pennsylvania?
21	A.	Yes.
22	Q.	There's actually a Lancaster, but they
23	call it Lanca	aster in Massachusetts. They say it
24	differently.	Have you lived in Pennsylvania your
25	whole life?	

1	Α.	Yes.
2	Q.	Okay. Always in Lancaster County?
3	Α.	No.
4	Q.	Where else have you lived?
5	Α.	I'm in Newport now which is Perry County,
6	Pennsylvania	
7	Q.	Okay. So that's pretty close by?
8	Α.	Yeah.
9	Q.	What do you do for a job?
10	Α.	Truck driving and shop mechanic work.
11	Q.	And do you do interstate trucking?
12	Α.	No. It's all in PA.
13	Q.	Okay. Who do you work for?
14	Α.	Self-employed.
15	Q.	Okay. What's the name of your company?
16	Α.	Winding Hill Express.
17	Q.	Is that the same company that you said
18	you do shop	work or is that something different?
19	Α.	Yeah. We do our own repair work.
20	Q.	Oh, okay. So how long have you owned
21	this company	?
22	Α.	1995, so it's 27 years.
23	Q.	And is that did you start the company
24	or did you b	uy it?
25	Α.	Yes.

		12
1	Q.	Okay. Do you have any employees?
2	Α.	Yes.
3	Q.	How many?
4	Α.	Presently there is three.
5	Q.	Okay. So what kind of items do you
6	usually trans	sport? Do you have your own items or do
7	you contract	it out?
8	A.	We're contracted out, and the items
9	are it is	liquid manure from animal production
10	facilities.	
11	Q.	Okay. So you have specialized trucks?
12	A.	It's what you would not like to enjoy
13	when you have	e a picnic.
14	Q.	So are the trucks kind of specialized
15	then for tran	nsportation?
16	A.	Yes. Yep. Yep. Exactly.
17	Q.	And you do all your own repairs,
18	everything 1:	ike that?
19	Α.	Yes.
20	Q.	Do you did you is this something
21	that a tra	ade that you learned on your own or did
22	you go to scl	nool for that?
23	Α.	I learned it from my dad.
24	Q.	Okay. So your dad did this before you?
25	Α.	Yeah.

		13
1	Q.	Okay. What's your education level?
2	Α.	Grade 8 plus three-hour school.
3	Q.	Okay. So after grade around what
4	age now I	can't remember about how old you are in
5	8th grade.	Would that be like 13, 14 years old?
6	Α.	Usually 14 and then three hours last
7	until you're	15 years old.
8	Q.	Okay. Yeah. Tell me about that a little
9	bit, so what	does that mean?
10	Α.	Three hours mean that you go to classroom
11	for three ho	urs a day three hours a week.
12	Q.	Okay.
13	Α.	And you keep a diary. And during the
14	week, you ar	e to keep a diary that you're doing
15	productive w	ork at home. You have a certain amount of
16	words you're	supposed to put down, things that you did
17	during the d	ay so that the teacher and the education
18	system under	stands that you were involved in
19	productive l	abor.
20	Q.	Okay. So did you mainly just work with
21	your family	then?
22	Α.	Yes.
23	Q.	Okay. Was it a paid job?
24	Α.	No.
25	Q.	So who would you submit, I guess, your

1	naners and t	14 his your paragraphs and everything you
2		and your descriptions, who would you
3	submit that	-
4		
	Α.	To the school teacher
5	Q.	Okay.
6	Α.	that would we would all congregate,
7	gather, all	the three-hour students from several
8	schools would	d gather on Saturday morning for three
9	hours. Have	some curricular assignments and submit
10	our diaries	and everything.
11	Q.	And I don't want to be presumptuous, but
12	I'm assuming	this is a teacher within your Mennonite
13	community?	
14	Α.	Yes.
15	Q.	Okay. And were you I guess you are
16	currently a	member of the Eastern Pennsylvania
17	Mennonite Ch	urch?
18	A.	Yes.
19	Q.	What congregation do you go to?
20	A.	Millerstown.
21	Q.	And how long have you been attending
22	there?	
23	A.	Since 1995.
24	Q.	Okay. Have you always been a member
25	I'm going to	just refer to it as the EPMC. It will be

1		me stumbling over my words the whole time.
2	Have you alw	ays been a member of the EPMC?
3	Α.	No.
4	Q.	Where were you a member prior to that?
5	Α.	Weaverland Conference.
6	Q.	Okay. And that was also in Pennsylvania?
7	Α.	Yes.
8	Q.	Okay. And when you said what year did
9	you become a	member of the EPMC?
10	Α.	1992.
11	Q.	Okay. Was that did your whole family
12	decide to ch	ange or is that you personally?
13	Α.	My wife and I.
14	Q.	Okay.
15	Α.	Yes.
16	Q.	Okay. What's your wife's name?
17	Α.	Gloria.
18	Q.	How long have you been married for?
19	Α.	Since 1985 which is
20	Q.	Just the year is fine. If you asked me
21	to do math o	n the spot, I would not be able to, so
22	that's good.	Do you have any children?
23	Α.	Yes, we do.
24	Q.	How many?
25	А.	Nine.

1	Q.	Oh, wow. Okay. Are they all adults or
2	is there som	e minors?
3	А.	They are all adults.
4	Q.	Okay.
5	Α.	As of last year.
6	Q.	Oh, wow. So just you and your wife live
7	together or	do you have any of your children living
8	with you?	
9	Α.	There's three at home yet.
10	Q.	Oh, there are. Okay. Any grandkids?
11	Α.	Yes.
12	Q.	How many?
13	Α.	19.
14	Q.	Wow. I'm going to ask you all of their
15	birth dates.	No, I'm just kidding. That would be
16	terribly mea	n unless you know them all, and you can
17	impress me.	
18	Α.	I know the first one.
19	Q.	I mean that's the most important one;
20	right?	
21	Α.	It was.
22	Q.	So do you have any position or title
23	within the c	ongregation that you are a part of?
24	Α.	No.
25	Q.	So you just consider yourself to just be

1	a member of that congregation?	
2	A. A member, yes.	
3	Q. Okay. And what does it mean to you to	
4	be, I guess, a member of the EPMC? Meaning, and I	
5	won't get specifically into what your beliefs are, but	
6	is there just a general guidance or is there other	
7	certain, I guess, general rules or just things that	
8	you live by that's common to other people that are	
9	within the EPMC? Like what does it mean to you to be	
10	a member of that church?	
11	A. I'm not sure that I totally understand	
12	what you're asking.	
13	Q. Just more of just a general sense to you	
14	what does it mean to be a member of the EPMC. Like is	
15	it a general set of beliefs that everybody shares? Do	
16	you try to live the same type of common practices?	
17	What does it mean to you?	
18	A. In answer to your statements, yes. We do	
19	live we do have a general set of beliefs and live	
20	by those, yes, and I'm happy to be there. It's just a	
21	good place to be.	
22	Q. So I'm going to transition a little bit	
23	more specifically now into some businesses. I know	
24	that you said it you winding wills in the same	
	that you said it was Winding Hills is the name?	
25	A. Winding Hill Express.	

		10
1	Q.	Winding Hill with no S?
2	A.	Yeah.
3	Q.	Okay. Do you have ownership interest in
4	any other bu	sinesses?
5	A.	Yes, I do.
6	Q.	Which ones?
7	A.	Chestnut Ridge Mulch.
8	Q.	And what type of ownership interest do
9	you have in	that business?
10	A.	Simply it's an LLC, and my son and I have
11	divided shares in that. I have 80 percent. He has 20	
12	percent.	
13	Q.	And is your son more active in the
14	company?	
15	A.	Yes.
16	Q.	Okay. So he is the one that kind of runs
17	it day-to-da	y?
18	A.	He does.
19	Q.	And do you have any financial interests
20	in any other	businesses other than the ownership
21	interest in	Chestnut Ridge and your trucking company?
22	A.	No.
23	Q.	Now, are both Chestnut Ridge and Winding
24	Hill with no	S, are they both based in the same
25	general area	in Pennsylvania?

1		
1	A. PA.	Chestnut Ridge Mulch is in Blairsville,
3	Q.	Okay. What county is that? I forget.
4	Α.	Indiana.
5	Q.	Oh, okay. So it's a little bit further
6	west, yeah.	
7	Α.	It's several hours west, yes.
8	Q.	Okay. Do you and your businesses or I
9	guess specif	ically your primary business, do you hold
10	bank account	s in the same general area? Like is it a
11	local bank of	r do you bank nationally?
12	A.	Winding Hill does the account does the
13	banking at J	uniata Valley at Millerstown.
14	Q.	Okay.
15	A.	And Chestnut Ridge does the banking at
16	Indiana Firs	t Bank and also at Millerstown. There's
17	accounts in	either bank.
18	Q.	Okay. What about you personally? Same?
19	A.	It's Juniata.
20	Q.	Okay. Do you own any property anywhere?
21	Α.	My personal property and the adjoining
22	property.	
23	Q.	And do you I guess is there like a
24	main shop or	property that you run your business out
25	of or is it	out of your house?

		20
1	Α.	Well, they're at the same address.
2	Q.	Oh, they are. Okay.
3	Α.	Yes.
4	Q.	So I want to kind of skip ahead a little
5	bit to the -	- kind of leading up to the creation and
6	beginning bu	siness of Liberty Ridge.
7		So it's my understanding that you were
8	involved in	the committee work with kind of developing
9	Liberty Ridg	e, is that correct?
10	Α.	Yes.
11	Q.	How did you first become involved in the,
12	I guess, inc	eption of the concept of Liberty Ridge?
13	Α.	I was asked if I would serve on the
14	committee, a	nd that's how I started.
15	Q.	Who asked you?
16	Α.	The chairman at that time no, no. He
17	was not the	chairman. I'm sorry. Lamar Garman was
18	one of the c	ommittee members, and he asked me, and
19	that's how I	responded.
20	Q.	So you were asked specifically by
21	somebody who	was already within the committee?
22	Α.	Yes.
23	Q.	Okay. And was his name again?
24	Α.	Lamar Garman. He's no longer on the
25	committee.	

1	Q. Okay. Were you approached at all by
2	anyone in the Mennonite Messianic Mission that I'm
3	just going to refer to as the Mission to do any of
4	this work or was it only from people who were
5	Mr. Garman who was already on the Liberty Ridge
6	committee?
7	A. All of my correspondence was with the
8	Liberty Ridge committee.
9	Q. Okay. And do you recall around when it
LO	was that you first were approached by Mr. Garman to
L1	help out?
L2	A. When I became part of the committee was
L3	on April 2011.
L 4	Q. So when you first became involved in the
L5	committee, what were your duties or your
L6	responsibilities?
L7	A. I had no specific assignments as I came
L8	on. That only developed later.
L9	Q. Okay. So when you first came on, tell me
20	a little bit give me kind of a bird's eye view of
21	what you were asked to do and just what you
22	participated in when you first become involved in the
23	committee?
24	A. Some of my first assignments were to help
25	recruit mentors. I don't recall clearly how that was.

	1
1	Q. That's fine. Did you or did your
2	committee, if you remember, receive any direction or
3	oversight from the Mission Board in creating Liberty
4	Ridge?
5	A. Yes.
6	Q. Okay. Do you recall what involvement
7	there was with the Mission Board?
8	A. Mission Board, yes, I do recall. Mission
9	Board approved the members that were asked and
LO	approved basically everything that we did.
L1	Q. Okay. While you were on the committee
L2	I'll kind of separate it out from creating Liberty
L3	Ridge and then after it kind of became an entity, so
L 4	we're still kind of working before it was an official
L5	entity.
L6	Did you attend any of the Mission Board
L 7	meetings or discuss any Liberty Ridge matters with the
L8	Mission Board personally?
L9	A. No.
20	Q. Okay. What about as a committee? Were
21	you involved in any communications with or discussions
22	with the Mission Board regarding Liberty Ridge?
23	A. Yes, some.
24	Q. Okay. What kind of conversations?
25	A. Just strategy for developing protocol,

1	moving forward. We just had to develop it from the
2	ground up.
3	Q. Okay. So while developing Liberty Ridge
4	from the ground up, what did you and the committee use
5	as, I guess, your guidance in developing it, if any?
6	Was it kind of just an idea on its own or did you look
7	elsewhere?
8	A. We compared we and this is where I
9	was not along at the very beginning when several
LO	handful of the brethren went and visited other
L1	institutions that were doing what we anticipated
L2	doing.
L3	Q. Do you remember and I know you said
L 4	you didn't go personally, but do you recall what those
L5	other institutions were?
L6	A. You mean by name?
L7	Q. Yeah, if you remember. Again, if you
L8	don't, that's fine. I don't mean to have trick
L9	questions. I know it was a long time ago.
20	A. It's not a trick question. It's not a
21	problem, but I was not there personally, and we refer
22	to that institution often. I cannot I cannot bring
23	it up right now. I'm sorry.
24	Q. That's fine. Do you know who did
25	anybody physically go visit any of these other

	2.4
1	institutions?
2	A. Yes.
3	Q. Do you know who it was?
4	A. I think Ethan, Nelson, Martin. I'm not
5	sure about all the others.
6	Q. Okay. Now, in developing Liberty Ridge
7	do you know or were you involved in any discussions as
8	to why there was a need for Liberty Ridge within your
9	community?
LO	A. Certainly. Yes. We had the need was
L1	apparent because of parents that were saying could you
L2	help with our boys.
L3	Q. And what type of help was it that they
L 4	were asking for?
L5	A. They were asking for help to train, guide
L6	the boys. Give them another scenery, something other
L7	than their direction because yeah, they were
L8	resisting the parents at home, and they couldn't get
L9	anywhere with them.
20	Q. Okay. Was this more behavioral
21	resistance? Did they need discipline? Was it
22	spiritual or was it a mix of kind of everything?
23	A. A mix.
24	Q. Okay. Was there any targeted recruitment
25	or specific discussion about children who needed

1	mental health treatment or had any specific mental
2	health diagnoses within Liberty Ridge?
3	A. I'm not sure that I understand your
4	question.
5	Q. Okay. When creating Liberty Ridge, was
6	there discussion about any specific discussion
7	about providing treatment to young men who had mental
8	health diagnoses specifically?
9	A. Yes. We talked about that and the very,
10	very difficult cases we knew that we couldn't handle.
11	Q. Tell me a little bit about those
12	discussions.
13	A. We didn't we didn't feel like we could
14	handle very, very difficult mental cases because we
15	weren't set up for it, so we would not take those type
16	in.
17	Q. Okay. So it was discussed then having
18	obviously kind of an assessment process then before
19	having the boys come in?
20	A. Yes.
21	Q. Okay. So tell me a little bit going back
22	about your involvement with selecting mentors for the
23	program. How did you go about doing so?
24	A. We would get suggestions from get
25	input from the local congregations where these boys

26
were. Ask, you know, what kind of character and
personality and if they would actually be able to
relate well to this type of situation.
Q. So you mentioned character, personality,
and then relating to the situation. So let's I
guess let's start with one. What type of character
traits were you looking for in selecting mentors?
A. People that are boys that are able to
accept others for who they are. Be a good example
themselves of good Christian ethics which includes
quite a bit.
Q. And then you mentioned about, I guess,
character and personality I think kind of falls into
the same general discussion. But when it comes to
being able to relate, what do you mean by that?
A. Some people are obviously not able to
feel comfortable relating and not able to in a relaxed
way and help the residents to feel accepted and at
rest.
Q. Okay. When you say able to relate, are
these individuals who would also experience some
troubles in their youth or is that not somebody that
you were looking for in your selection?
A. We weren't specifically targeting that,
no.

1	Q. Okay. When evaluating the mentors for
2	the program, did you ever observe them interacting
3	with any troubled I'm just going to use the word
4	troubled generally as we're discussing this any
5	other troubled youth? Like was that part of your
6	selection process just observing them interacting with
7	your kind of target audience?
8	A. Usually not that I would have personally
9	saw that.
10	Q. Okay.
11	A. But here again, I reflect back on the
12	recommendations of others, and a lot of times these
13	young men would have expressed an interest in helping
14	this type of person and would have had the history of
15	having done that.
16	Q. Okay.
17	A. Outside of Liberty Ridge.
18	Q. Okay. How old were the mentors that you
19	were selecting or helping go through the process of
20	selecting?
21	A. During the time period of David Cross, it
22	was 21 years and older.
23	Q. Okay. Do you recall specifically, and
24	you may not, do you recall specifically how many
25	mentors were at Liberty Ridge when David and then

1		
1	Robert were t	chere?
2	Α.	Usually one mentor per resident.
3	Q.	Okay. Do you recall about the ages of
4	the mentors t	that were at Liberty Ridge during that
5	time?	
6	Α.	No.
7	Q.	Okay. But generally speaking, probably
8	in like early	twenties?
9	Α.	Over 21.
10	Q.	Okay. Were the mentors married or
11	single?	
12	Α.	Single.
13	Q.	Were they getting paid for their work
14	there?	
15	Α.	No.
16	Q.	But they lived on the property?
17	Α.	During their time there, yes.
18	Q.	Okay.
19	Α.	Yes.
20	Q.	Did the mentors ever get like vacation or
21	a break when	they were working at Liberty Ridge?
22		MS. WYNKOOP: Objection to form. You can
23	answer.	
24	BY MS. FRANCE	HI:
25	Q.	You can answer.

1	Α.	I'm she told me about that. I'm just
2	catching it.	Yes. At that time it was one day a week
3	and one week	end per month that they got off.
4	Q.	Okay. And then I'm assuming other
5	mentors that	were kind of in the pool would then fill
6	in during tha	at time?
7	Α.	Correct.
8	Q.	Okay. When you were helping create
9	Liberty Ridge	e and select the mentors, was there any
10	discussion al	oout oversight over the mentors while they
11	were working	at Liberty Ridge? Like did they have
12	somebody supe	ervising them that they would report to?
13	Α.	Absolutely.
14	Q.	Who would that be?
15	Α.	The department heads which is house
16	parent and a	work coordinator. At David Cross's era,
17	that was the	same person.
18	Q.	Okay. And that would have been Ethan
19	Weaver?	
20	Α.	Yes.
21	Q.	Okay. So I am going to we're going to
22	refer to the	not so fancy book that I have in front of
23	you right now	v. I specifically I just opened right
24	to the page t	that I was trying to go to. So there are
25	some pages be	etween LRF-86 and LRF-95.

-	30
1	MS. WYNKOOP: Sorry. That was just the
2	coffee cup sliding.
3	BY MS. FRANCHI:
4	Q. That I'll be referring to. So if you
5	could first turn to LRF-86 which is about halfway
6	through the book. Just let me know when you get
7	there.
8	A. I'm here.
9	Q. Okay. Also turned right to the page.
LO	That's great. Maybe it's just I don't know. So
11	you had said that you had not joined the committee
12	until after it had already been created. So here were
13	the meeting minutes for June 2nd, 2010. You weren't
14	involved at that time?
15	A. That's correct. I was not.
16	Q. Okay. And then going to Page 87 to Page
17	88 is June 29th, 2010, August 3rd, 2010, so you still
18	weren't involved at that time?
19	A. That's right.
20	Q. Okay. And then continuing on Page 90 is
21	December of 2010. Page 91 is November of 2010. You
22	still weren't involved?
23	A. That's right.
24	Q. Okay. So you said around April of 2011
25	is when you became involved. Would that be if you
	-

	21
1	look at Page LRF-92, would that have been around the
2	time of these meeting minutes for the Mission?
3	A. Yes. That's right I don't recall
4	being at that meeting, but yes.
5	Q. Okay. Did the Liberty the full
6	Liberty Ridge committee attend all I guess did all
7	of the members of the committee attend all of the
8	Mission meetings or did it just depend who was
9	available?
LO	A. No. After the formation, it's rare that
L1	the Liberty Ridge committee will attend an MMM
L2	meeting.
L3	Q. Okay.
L4	A. But there's a representative that from
L5	our committee from Liberty Ridge that is at every
L6	usually every Mission Board meeting.
L7	Q. Okay. So it's someone is there, but it's
L8	not everybody?
L9	A. A representative, yes.
20	Q. Okay. So I'm going to turn you to Page
21	LRF-93. This looks like it was from May 4th of 2011.
22	Specifically I'm going to draw your attention down
23	where it says boys home and then Item E.
24	A. Okay.
25	Q. Excuse me. Sorry. It talks about the

1	Liberty Ridge committee presenting a proposal from
2	Snyder Gates that would allow them to set up shop to
3	manufacture fiberglass farm gates incorporating the
4	labor of the Liberty Farm residents. Were you
5	involved in those committee discussions?
6	A. Yes.
7	Q. Tell me a little bit about what was
8	discussed just generally, and then I'll ask you more
9	specific questions.
LO	A. Snyder Gates was looking for somebody to
L1	assemble and paint, prep gates for sale, and we took
L2	that on at Liberty Ridge.
L3	Q. Okay. Did Snyder Gates approach the
L 4	committee or did the committee approach Snyder Gates?
L5	A. Snyder Gates approached the committee.
L6	Q. Okay. And they were just looking for
L7	just extra labor to help them assemble their
L8	products?
L9	MS. WYNKOOP: Objection to form.
20	BY MS. FRANCHI:
21	Q. If you know.
22	A. Yes. That's right. They were just
23	looking for something somebody to do it, and we
24	were looking for something to employ.
25	Q. Okay. Do you remember who the

1	representative was from Snyder Gates that the
2	
	committee was speaking with?
3	A. Nolan Snyder.
4	Q. Nolan Snyder, okay. Was this somebody
5	that was familiar to you prior to these discussions?
6	A. Yes.
7	Q. Okay. How did you know him?
8	A. Just a man in the area. A man in the
9	community.
10	Q. Okay. So you were just you knew of
11	him, but you weren't like friends or socialized or
12	close with?
13	A. That's correct.
14	Q. Okay. Had you done business with him
15	before?
16	A. Not in the Snyder Gates.
L 7	Q. Okay. So did Snyder Gates discuss with
18	the committee, if you recall, any talks about payment
19	for the work that was performed or anything like that?
20	MS. WYNKOOP: Objection to form.
21	A. There we discussed the remuneration or
22	the payment that would come to Liberty Ridge Farm for
23	the service, yes.
24	BY MS. FRANCHI:
25	Q. Okay. And what was that payment that was
	2. C.I.I., C.I.I

	34
1	decided on, if you remember?
2	A. I don't remember.
3	Q. Okay. Was there a written contract?
4	A. I don't remember.
5	Q. Okay. So where it says where the
6	committee presented a proposal from Snyder Gates, was
7	it just a verbal proposal?
8	A. I don't recall.
9	Q. Okay.
10	A. See, in the Mennonite community, they're
11	also Mennonites, there's a lot of verbal
12	understanding.
13	Q. Okay. And that was kind of what I
14	thought, but I'd be remiss in not asking. But, again,
15	if you don't know or if there isn't such thing, please
16	let me know.
17	Do you know do you know if Snyder
18	Gates did remit any payments to Liberty Ridge for the
19	work that was done once Liberty Ridge was opened?
20	MS. WYNKOOP: Objection to form.
21	A. I would think they did.
22	BY MS. FRANCHI:
23	Q. Okay. But you don't know for sure?
24	A. I was not the one that received them
25	personally, so maybe.

	35
1	Q. Who would that have been?
2	A. Nelson Martin.
3	Q. And he was the treasurer?
4	A. Yes.
5	Q. Okay. Are you still on the Liberty Ridge
6	board now?
7	A. Yes.
8	Q. What's your position, if you have a
9	specific title?
10	A. I don't.
11	Q. Okay. What are your general duties, if
12	there is anything specific, on the Liberty Ridge board
13	now?
14	A. I recruit house parents, department
15	heads, and the department head the house parent is
16	answerable to me. As far as if they have any
17	questions, they contact me as the contact person for
18	the committee, and then I'll get the committee
19	approval.
20	Q. Okay.
21	A. So they have somebody to go to.
22	Q. Okay. Were you involved in either the
23	recruitment of or the setting up of any other
24	businesses doing work with Liberty Ridge other than
25	Snyder Gates?

_		36
1	Α.	No.
2	Q.	Do you know who would have been?
3		MS. WYNKOOP: Objection to form.
4	Α.	Explain.
5	BY MS. FRANC	HI:
6	Q.	Who else on the Liberty Ridge board or
7	involved in	Liberty Ridge do you know of that would
8	have been in	contact with other businesses some of
9	the names I'	ll get to that would have had the
10	Liberty Ridg	e residents do work for them? Who would
11	that person	have been?
12	Α.	I understand your question now. I was
13	involved in	communicating with Wengerd Pallet.
14	Q.	Okay. So were when did you first
15	communicate	with Wengerd Pallet about doing this kind
16	of work?	
17	Α.	December 2013.
18	Q.	And were those communications similar to
19	those that y	ou had explained about the conversations
20	with Snyder	Gates?
21	Α.	Yes. Very Wengerd is an Amish run
22	outfit and v	ery verbal, yes.
23	Q.	Okay. In either your setting up Snyder
24	Gates or Wen	gerd Pallet with Liberty Ridge, was there
25	any discussi	on about paying the boys for their work

	37
1	specifically to the boys?
2	MS. WYNKOOP: Objection to form.
3	A. No.
4	BY MS. FRANCHI:
5	Q. Okay. Was there any with setting up
6	either the work with these two companies, were there
7	any directives for, you know, there had to be this
8	many gates built or this many pallets built?
9	MS. WYNKOOP: Objection to form.
10	A. No.
11	BY MS. FRANCHI:
12	Q. Okay. If there were any written
13	contracts between these two companies or any other
14	ones in Liberty Ridge, do you know who would have
15	copies of those contracts?
16	A. No.
17	Q. If there was any money transferred
18	between the two entities, do you know who would have
19	documentation of that?
20	A. Nelson Martin.
21	Q. Okay. I know you had said that you
22	worked on your family farm while you were still in
23	three-hour schooling?
24	A. Yes.
25	Q. Is it a normal practice within the

	38
1	Eastern Pennsylvania Mennonite community that children
2	would work on family farms or for family businesses?
3	A. Yes.
4	Q. Is it like learning by doing basically?
5	A. That's right. Yeah.
6	Q. Okay. Did children when I say
7	children, generally I mean anybody under the age of
8	18. I'm not being specific about
9	A. Sure.
10	Q age. But when children would begin,
11	you know, working and learning by doing, did they ever
12	work for other individuals that weren't their
13	families?
14	A. Yes.
15	Q. Okay. While working for individuals
16	outside of their family, was it common for children to
17	work unpaid?
18	A. Yes.
19	Q. Okay. Were there strike that. Was it
20	uncommon for anyone under 18 working to be paid for
21	their labor or did it depend?
22	A. I can't really answer.
23	Q. Okay.
24	A. I'm not sure.
25	Q. So as Liberty Ridge was getting ready to

1	open, was there any specific training provided to the
2	mentors or the Liberty Ridge staff?
3	A. No specific classes or training, no.
4	Q. Okay. Was there any direction given to
5	the mentors on how to handle situations with boys who
6	were troubled that would be attending Liberty Ridge?
7	A. There were occasions that that was
8	advice was given, yes.
9	Q. What kind of advice?
10	A. Just good advice. Just how to relate,
11	and we had weekly meetings with the staff to field
12	questions, discuss strategy.
13	Q. And when you say we, that would have
14	been
15	A. The committee.
16	Q. The whole committee?
17	A. Not the whole committee.
18	Q. Just some individuals?
19	A. A representative that would take a week.
20	Q. Okay. How were the mentors guided in
21	dealing with troubled boys who were having, I guess,
22	an increase in their mental distress or anger issues?
23	I guess, anything above the normal every day, how were
24	they guided in dealing with that?

40
house parent, or work coordinator, whoever was there,
would they would work together with it rather than
just one individual because when you have a troubled
youth, you can't just dive into it yourself.
Q. Mm-hmm. Do you know if there was any
consultation with any entities like Department of
Labor or the Department of Health or any of those
governmental agencies when establishing this youth
home or putting together any plans for having the
children work?
A. I am not aware of any.
Q. Okay. There were no Department of Labor
rules or anything posted in the home, anything like
that?
A. No. That's right.
Q. Okay. So I know you had mentioned that
you were familiar with Wengerd Pallet, that you had
spoken with them. You were also familiar with Snyder
Gates.
Were you also personally familiar with
any of the other businesses that work with Liberty
Ridge such as Sensenig Chair Shop, Clark's Feed Mills,
Dutch-Way Farm Market or any other businesses that did
work with Liberty Ridge?
A. Sensenig Chair Shop I was I knew them.

1	But the others, I know who they are, but I didn't
2	really
3	Q. Okay. Do you have any ownership interest
4	or financial interests or do your family members have
5	either in any of the businesses that did work with
6	Liberty Ridge?
7	A. No.
8	MS. FRANCHI: I'm going to take one quick
9	break.
10	THE VIDEOGRAPHER: We are going off the
11	record at 11:55 a.m.
12	(Recess)
13	THE VIDEOGRAPHER: We are going back on
14	the record. The time is 12:12 p.m.
15	BY MS. FRANCHI:
16	Q. So we'll get back at it. I think we last
17	were going down the line of a couple questions about
18	the businesses that were associating with Liberty
19	Ridge, so I want to pivot a little bit to a different
20	direction now.
21	So I'm aware that there or let me go
22	back. We had received a policy manual for Liberty
23	Ridge, but I believe it was a newer policy manual from
24	not the time period involving our clients, so we
25	couldn't have a copy of the old policy manual.

	42
1	But do you recall being involved in the 42
2	drafting or preparation of the previous policy manual
3	that was in place when Liberty Ridge first opened, if
4	any?
5	A. No.
6	Q. Okay. Do you know if there was
7	specifically like written down policies during that
8	time?
9	A. I would assume so.
LO	Q. Okay. If there was a policy manual or
L1	some kind of handbook drafted, do you know who would
L2	have been involved in that?
L3	A. No.
L 4	Q. Okay. So, again, in the new policy
L5	manual it talks about the Liberty Ridge mission and
L6	purpose. But not having that to refer to now, from
L 7	your memory what was the mission and purpose of
L8	Liberty Ridge once you got down to the point of
L9	opening Liberty Ridge to residents?
20	A. Pieces of the mission statement would be
21	to help parents with their troubled boys, to learn how
22	to relate well in and what Liberty Ridge is
23	providing is a family like setting. Providing
24	education, spiritual nuture, and training on how to
25	relate, how to work, to help them relate to society

1	and church life.
2	Q. So I guess was it described as being like
3	a therapeutic setting or was it more of a spiritual
4	setting or were any of those words used when, I guess,
5	describing to the public or to the community what
6	Liberty Ridge would be doing?
7	A. It was I don't I don't have the
8	therapeutic definition exactly. I'm not sure what
9	you're referring to on that. But as far as spiritual
10	and relational, yes, that's what it was.
11	Q. Okay. And when you say spiritual, I'm
12	assuming that Liberty Ridge was operating under the
13	guidance of the Eastern Pennsylvania faith; correct?
14	A. Yes.
15	Q. Okay. So tell me a little bit about the
16	assessment and, I guess, recruitment of boys to
17	participate in Liberty Ridge. I guess first who
18	determines whether the child is, I guess, troubled or
19	is in a position to be taken into Liberty Ridge?
20	MS. WYNKOOP: Objection to form.
21	A. The parents.
22	BY MS. FRANCHI:
23	Q. Okay. So the parents would approach
24	Liberty Ridge?
25	A. The parents and the ministry of the home

[
1	congregation of the parents.
2	Q. Okay. So that was going to be another
3	question then. Oftentimes the parents would first
4	talk to the ministry?
5	A. Yes.
6	Q. Try to figure it out amongst
7	themselves?
8	A. Yes.
9	Q. And then come to Liberty Ridge?
10	A. Yes.
11	Q. Okay. So it was kind of like not the
12	last resort, but one step after?
13	A. Yes.
14	Q. Okay. When children were taken in, were
15	there ever was there a process of dealing with
16	specific mental health diagnoses or was that not
17	something that was considered or talked about?
18	A. If there was mental health issues, it was
19	discussed.
20	Q. Okay. Was there any psychiatric, medical
21	or any psychologist or therapy-related services
22	provided to the residents while they were at Liberty
23	Ridge at any point?
24	A. Yes. I recall one time taking David to a
25	doctor.

	45
1	Q. Okay. But as far as the staff at Liberty
2	Ridge, there wasn't like a therapist on staff;
3	correct?
4	A. That's correct.
5	Q. Okay. I'm going to skip around a little
6	bit. If you could just bear with me for just a
7	moment. Are you or any of the board members paid for
8	your work with Liberty Ridge?
9	A. No.
10	Q. All volunteer?
11	A. Yes.
12	Q. Were you ever personally involved with
13	any of the day-to-day activities of Liberty Ridge?
14	A. Yes.
15	Q. Tell me about that.
16	A. Just when I was there for okay. I
17	give haircuts regular about every month, and sometimes
18	I'll stay and help with the work, you know, whatever
19	it is, but I've never spent weeks there, but I've been
20	there.
21	Q. So is it safe to say you'd drop in and
22	help out as needed and then go about your business?
23	A. Yes.
24	Q. Okay. Did you ever personally give
25	direction to the children to do any certain work? I

	16
1	guess did you oversee any of their work and say, you 46
2	know, you go do this or you go do this?
3	A. Not that I recall.
4	Q. Okay. What is your understanding of
5	who directs the children to their specific
6	assignments?
7	MS. WYNKOOP: Objection to form.
8	A. That's the coordinators that are on
9	site.
LO	BY MS. FRANCHI:
L1	Q. Okay. When you say coordinators, you
L 2	mean the house parent or the mentors?
L3	A. Or the work coordinator. Now, in that
L4	case, the house parent and work coordinator were the
L5	same.
L6	Q. Okay. Back in 2011 to 2014?
L7	A. Yes, yes.
L8	Q. Okay. Are you aware of whether we'll
L9	just specifically talk about the time period of 2011
20	to 2014 because I understand that things have
21	changed, kind of developed since that time to some
22	extent.
23	Are you aware of whether during that time
24	the children were ever taken off the Liberty Ridge
25	property to do work elsewhere at other sites?

	47
1	MS. WYNKOOP: Objection to form.
2	A. I can't recall.
3	BY MS. FRANCHI:
4	Q. Okay. What is your understanding of
5	Nelson Martin's involvement with Liberty Ridge other
6	than being the treasurer?
7	A. He's the farm manager.
8	Q. Okay. And when you say the farm manager,
9	does he give direction, say, you know, where the
LO	children are supposed to work and what duties are
L1	supposed to be performed?
L2	A. He is not involved in the day-to-day work
L3	or he's not involved in giving the residents
L4	direction, but he is involved in with like Wengerd
L5	Pallet or the chicken company and setting up the
L6	arrangements.
L 7	Q. Okay. So
L8	A. And coordinating some of those things.
L9	Q. So it's more of the overhead of
20	everything, not the specific telling the boys what to
21	do?
22	A. That's right.
23	Q. Okay. But everybody kind of works under
24	his umbrella of these are the things that need to be
25	done, and then somebody else will implement it?

	48
1	A. Right.
2	Q. Okay. I'm sorry. I talk with my hands.
3	A. That's good. I do, too. You saw me.
4	Q. So I can visualize it. We were doing
5	that yesterday. We were talking, and I was like this
6	is my imaginary whiteboard, so.
7	A. Yep, yep.
8	Q. Okay. Are you aware of actually,
9	strike that. What is your understanding of the
10	Mission Board's oversight of Liberty Ridge now that
11	it's I guess now that we're talking about it being
12	open and operating?
13	A. And this is still the time period. The
14	oversight was simply that they would give approval and
15	be aware of what's going on, the people that are
16	working there.
17	Q. Okay. So is it safe to say that the
18	Mission Board had an idea of the goings on at Liberty
19	Ridge. Maybe not, you know, every day that they
20	worked from 8 a.m. to this time, but generally who was
21	there, the general duties that are being performed,
22	things like that?
23	A. Yes.
24	Q. Okay. Was the Mission Board in a
25	position such that if they felt there was something

1	improper going on at Liberty Ridge or anything that
2	they deemed to not be appropriate, that they would
3	step in and say that you need to do something
4	different?
5	A. If they were aware of it.
6	Q. Okay.
7	A. Which they may not have been aware of
8	everything.
9	Q. Okay. So were they basing their
10	perception off of what was being reported to them and
11	not as much it wasn't the Mission Board going and
12	watching what was happening every day?
13	A. That's correct.
14	Q. Okay. Do you know at the time of the
15	beginning of Liberty Ridge to when David Cross left
16	Liberty Ridge, which is about 2014, are you aware of
17	which businesses were which businesses were
18	associated with Liberty Ridge, meaning was it the
19	pallet company? Was it the gate company, if you
20	recall?
21	MS. WYNKOOP: Objection to form.
22	A. The chickens were there from the
23	beginning and the gate company. And the first that we
24	had contact with the pallet company was in December of
25	2013. Was it up and running while David was there? I

1	can't answer.
2	BY MS. FRANCHI:
3	Q. Okay. What was the company Liberty Ridge
4	was dealing with for the chickens?
5	A. I always forget that name. That is
6	disgusting.
7	Q. I don't know. You're doing pretty good.
8	A. You may have that.
9	Q. I actually don't.
10	A. I am sorry.
11	Q. That's okay. You don't need to apologize
12	to me.
13	MS. WYNKOOP: You don't have to look.
14	BY MS. FRANCHI:
15	Q. Do you think that Mr. Martin might know?
16	A. Yes.
17	Q. Okay.
18	A. I saw the name so often.
19	Q. It will come to you. You're going to
20	leave and you're going to say
21	A. I know Bell and Evans, and I know all
22	those other popular ones.
23	Q. Except for that one. So I always
24	remember things like I'll leave and be doing something
25	else random and be like, wait a second, that is what I

	51
1	was thinking of.
2	MS. WYNKOOP: Yep.
3	BY MS. FRANCHI:
4	Q. Okay. So now this is the point where I
5	said I was going to flip around a little bit because
6	we're kind of changing course about midway through.
7	So while you were helping recruit the
8	mentors and kind of guide them into their role at
9	Liberty Ridge, did you have any discussions with them
10	or give them any directions about administering
11	consequences to the residents?
12	A. As a committee, we would have done that.
13	Q. Okay. So it wouldn't have just been you.
14	It would have been the whole committee?
15	A. That's right.
16	Q. Okay. Do you recall what was decided by
17	the committee as to how to handle situations of
18	consequences at Liberty Ridge?
19	A. Yes.
20	Q. Tell me about that.
21	A. Are you asking what was administered or
22	what consequences we had or what's your question?
23	Q. All of it. Tell me about what was kind
24	of discussed and decided as a committee. And then
25	if I need anything more specific, I'll ask. I just

52 want to give you an opportunity to kind of explain it
in your own words. And then if there's anything else
or you might just cover it all without me asking
again.
A. Well, we would always start with a very
minimal assignment trying to you know, Ethan was
very good at drumming up essays. Oh, you said you
don't want to. Can you write an essay on I don't want
to, and they would do it.
Q. So I've heard.
A. You know, yes. He was super at that.
And so you'd start at the bottom to encourage better
behavior.
Q. And then did it kind of escalate from
there? Like say talking to them didn't work. You'd
move to a writing exercise, and then you'd move on to
something else. What do you recall was kind of the
escalation of those consequences?
A. You mean like the more maximum level?
Q. Yeah. I guess just walk me through it.
We talked, you know, Ethan talking to them, and then I
know he told us a little bit yesterday, and then you
mentioned today about the writing exercises that he
would come up with?
A. Yeah, yeah.

1	Q. What would happen after that?
2	A. Well, that might be a run around the barn
3	or, you know, just, and finally if it was just not
4	received, we had options for digging post holes. We
5	were putting a fence in for the cattle in the pastures
6	and dig a post hole that you can sit a five-gallon
7	bucket in and or a ditch or something like that.
8	It was just something to it's not that
9	we required them to have it done in a certain time,
10	but it was something for them to work at and think
11	about, you know. And many a boy said while they were
12	doing that, that you know what, I'm going to comply.
13	I'm going to ask what they want of me, you know. It
14	was a good result.
15	Q. So was this at the discretion of the
16	mentors?
17	A. No.
18	Q. Would they who would then administer
19	the consequences generally called administer the
20	consequences if you know what I mean. Like who would
21	decide that the boys would receive a consequence for
22	something? Would it be the mentors?
23	A. No.
24	Q. Okay. Tell me about that process.
25	A. It was usually the department heads like

	54
1	the house parent or the work coordinator and in
2	consultation with their committee contact or the
3	committee. We had approved we had approved methods
4	and approved consequences
5	Q. Okay.
6	A that we would approve, and a lot of
7	times when there was an offense or a challenging
8	situation, the department head would even call and
9	say, you know, hey, I got this on hand, you know, what
10	do I do with it, which way do I go, and we would talk
11	about it.
12	Q. Okay. And what are some of, I guess, the
13	approved consequences? Was it what you had already
13 14	approved consequences? Was it what you had already mentioned? Is there are there other things?
14	mentioned? Is there are there other things?
14 15	mentioned? Is there are there other things? A. In that era like your the running.
14 15 16	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure
14 15 16 17	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that.
14 15 16 17 18	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that. Q. Okay. Were you involved in any
14 15 16 17 18 19	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that. Q. Okay. Were you involved in any discussions about any use of being hands-on with the
14 15 16 17 18 19 20	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that. Q. Okay. Were you involved in any discussions about any use of being hands-on with the boys in the sense of like using any physical restraint
14 15 16 17 18 19 20 21	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that. Q. Okay. Were you involved in any discussions about any use of being hands-on with the boys in the sense of like using any physical restraint or anything like that?
14 15 16 17 18 19 20 21	mentioned? Is there are there other things? A. In that era like your the running. Just different things that were done. I'm not sure that I have more to say about that. Q. Okay. Were you involved in any discussions about any use of being hands-on with the boys in the sense of like using any physical restraint or anything like that? A. Yes.

Q. Okay. What did the committee determine
was an appropriate use of being, quote, unquote,
hands-on with the residents at Liberty Ridge?
A. Only when a resident got violent were a
couple individuals allowed to put somebody like that
down and hold them carefully until they decide, and I
can still hear David saying I'm done.
Q. Okay.
A. Yeah.
Q. When you say getting violent, and I just
want to make sure we're talking about the same
definition, do you mean like only when, say, somebody
goes to take a swing at someone or could it also be
like they're having a mental crisis, and they're just
mentally out of control? Like what do you what is
your definition of being violent?
A. Throwing tools at you. Chasing you with
a shovel or things like that, yeah. Wherever it would
be they would do physical injury.
Q. Okay. What about situations where the
residents were in some sort of mental crisis, maybe
not swinging on someone violently, but for a lack of
better words, just in crisis mode? Was there ever a
time that you recall observing one of the children
being restrained in that sense?

1	56
1	A. No.
2	Q. Okay. Were the mentors instructed on how
3	to handle a situation like that?
4	A. Yes.
5	Q. Okay. Did you instruct them?
6	A. No.
7	Q. Okay. Do you know who would have?
8	A. No, I don't, but they were it may have
9	been the department heads or I just don't I
10	don't specifically remember in doing that instruction.
11	Q. Okay. That's fine. Was it ever
12	discussed amongst the committee members the use of any
13	type of physical restraints not involving hands, but
14	using other objects?
15	A. No.
16	Q. Okay. Was that something that the
17	committee permitted the mentors to do?
18	A. No.
19	Q. Okay. Have you ever heard of an incident
20	of that occurring at Liberty Ridge during 2011 to
21	2014?
22	A. No.
23	Q. Okay. If I were to tell you that one or
24	both of our clients would testify that they either
25	observed or had that physical restraint by the use of

1	57 objects performed on them or someone else, you would
2	say that that didn't happen?
3	A. I don't know of any.
4	Q. Okay.
5	A. No. I'm not aware of it.
6	Q. Okay. Sorry. Bear with me for just a
7	moment. I'm going to look through, and I might jump
8	forward a bit. How what is your understanding of
9	how much time the residents would have only with their
10	mentors outside of the supervision of any like the
11	higher-ups of Liberty Ridge?
12	A. Are you asking me for an estimation of
13	time?
14	Q. Yes. Just generally during the day, was,
15	you know, Mr. Weaver or yourself or someone else in
16	the committee always there with the mentors and the
17	boys or were the mentors kind of left to their own to
18	make sure that the boys were doing what they needed to
19	do?
20	A. There are times that the mentors would be
21	with them on their own.
22	Q. Okay. So they're not under the constant
23	supervision, you know, just this close?
24	A. Not constant. That's right.
25	Q. Okay. Like left to their own devices, I

		58
1	guess. Okay	. Did you ever observe personally any of
2	the mentors	acting in a way that you that gave you
3	pause or cau	sed you to redirect them or say, you know,
4	that's not a	ppropriate or anything to that extent?
5	A.	Yes.
6	Q.	Tell me about those times.
7	A.	Never physically. There was never a
8	physical adj	ustment that I had to address because they
9	don't the	y're not supposed to be in physical
LO	contact with	the boys.
L1	Q.	Right.
L2	A.	With the residents. But verbal and
L3	relational I	would have given direction just on how
L4	to how to	relate better.
L5	Q.	And that usually ended up in a
L6	discussion?	
L7	A.	Yes.
L8	Q.	Okay. Were there ever any mentors who
L9	were removed	from their work with Liberty Ridge or
20	asked to it	leave or asked to not participate anymore?
21	A.	Yes.
22	Q.	When was that?
23	A.	I don't recall the date, but I think it
24	was after th	is era.
25	Q.	Okay. So it wouldn't have been during

		59
1	2011 to 2014	
2	Α.	I don't think so. I don't think.
3	Q.	Not that you can recall?
4	Α.	That's right.
5	Q.	Okay. Was it within the purview of
6	Liberty Ridg	e to have children perform consequences at
7	nighttime or	after work hours at any point?
8	Α.	That has happened, yes.
9	Q.	Okay. Would those include consequences
LO	of doing phy	sical or manual labor like you said of
11	digging or a	nything else?
12	Α.	Yes.
13	Q.	Okay. And why was that?
14	Α.	It was until the job was complete or
15	until the bo	y was ready to do what he needed to do.
16	Q.	Okay. And a lot of times you've
17	mentioned, y	ou know, the boys ready to do what he
18	needs to do	or he's complied, who makes that
19	determination	n?
20	Α.	When he's ready?
21	Q.	Mm-hmm.
22	Α.	He does.
23	Q.	Okay. Were the boys allowed to voice any
24	complaints a	bout their mentors, say, if the boys
25	thought the	mentors were mistreating them or doing

1	anything of that nature?
2	A. Oh, yes.
3	
	Q. Who would they report it to?
4	A. Either a department head or a committee
5	contact, and I think they would have had access
6	through their parents, too.
7	Q. Okay. That's a great segue into my next
8	question. It's like you anticipated it. I was going
9	to talk a little bit about their communication with
10	their parents while they were at Liberty Ridge.
11	So the children, were they allowed to
12	call their parents on the phone?
13	A. Yes.
14	Q. Was there any restriction on how many
15	times they could call their parents?
16	A. Yes.
17	Q. Okay. Tell me about that.
18	A. I don't have everything in my mind
19	straight on that, but it was there was more
20	restriction during the first two months, and then it
21	was less restrictive after that. And letters could be
22	written back and forth, but usually it settled in
23	that and then also visits. They could come and
24	visit in person, too.
25	Q. Were the residents' phone conversations

	61
1	with their parents monitored by Liberty Ridge staff or
2	the mentors?
3	A. Yes.
4	Q. Why was that?
5	A. For content.
6	Q. Okay. And these would be the same
7	mentors that were overseeing their work during the day
8	would also be with them for phone calls and letter
9	writing?
LO	A. Right or the house parent might do that
L1	monitoring, too.
L2	Q. Okay.
L3	A. It could have been or it could have been
L 4	a fill-in mentor, too. It's not always just one
L5	person.
L6	Q. You mean they didn't work there seven
L7	days a week and never take a break?
L8	A. Right. That's right. That's right. And
L9	what I'm saying is if a fill-in mentor would monitor
20	the phone call, it's not like the resident is stuck
21	with one mentor.
22	Q. Okay. How would those phone calls be
23	monitored? Would they be on another line or just
24	sitting in the room?
25	A. On another phone usually I believe.

		60
1	Q.	So it would be like a hard line through
2	the	
3	Α.	Yes, a landline phone.
4	Q.	Gotcha. What about communications in and
5	out like let	ters, things like that? Did the mentors
6	review the i	ncoming and outgoing letters to and from
7	the children	?
8	Α.	Usually a department head would do that.
9	Q.	Okay. So that would have been like Ethan
10	or one of th	ose people?
11	Α.	Yes, yes.
12	Q.	Okay. And what would that what would
13	the purpose	of that monitoring be for?
14	Α.	For content. Again, to make sure that
15	the letters	coming in are good, and the ones going out
16	are, too.	
L7	Q.	Okay. So when you talk about the content
18	of the lette	rs and the phone calls, give me a little
19	bit more det	ail, if you will, about what type of
20	content they	were monitoring for?
21	Α.	Inappropriate discussions or
22	inappropriat	e content which would encourage the wrong
23	thing in the	boys.
24	Q.	Okay.
25	Α.	The reason that the parents brought them

		63
1	and delegate	d them to our responsibility was to raise
2	them, help t	hem to become more Godly, and so the
3	letters that	are coming in had to be monitored as
4	well.	
5	Q.	Okay.
6	Α.	The parents wanted it that way.
7	Q.	So hypothetically speaking, if the boys
8	were on the	phone with their parents and they wanted
9	to voice a c	oncern about their mentor, it would be the
LO	person sitti:	ng there listening to them that they would
L1	have to talk	to their parents about?
L2	A.	Mm-hmm.
L3	Q.	Okay.
L4	A.	And they could, and they do.
L5	Q.	Okay.
L6	A.	They will. If they have a desperate
L7	issue, they	will.
L8	Q.	Okay. What was the policy or the
L9	instruction	to the mentors about how to handle a
20	situation who	ere the boys would physically try to leave
21	the farm?	
22	A.	If the boys wanted to leave the farm, the
23	driveway was	open. They could walk.
24	Q.	Were they given any direction to try to
25	bring the bo	ys back in a certain manner?

		64
1	Α.	The mentors were usually not involved
2	with that.	
3	Q.	Okay. Is that something they would go to
4	like Ethan?	I just keep bringing his name up.
5	Α.	Absolutely. Absolutely.
6	Q.	Okay.
7	Α.	Yes, yes, yes. I there's one one
8	walked off,	and I was one of them that actually picked
9	him up and t	ook him where he wanted to go.
LO	Q.	Okay.
L1	Α.	We do not force anybody to stay.
L 2	Q.	Was that would that have been one of
L3	my clients o	r is that somebody else?
L 4	Α.	That was not one of yours, no.
L5	Q.	Okay. And, again, I had mentioned this
L6	yesterday du	ring depositions. If we're talking
L7	specifically	about my clients, we can we'll use
L8	their names.	But if it involves any other minors that
L9	were there,	you don't need to use their names. If one
20	of the names	does come up unintentionally, we'll
21	redact that	out of the actual physical transcript.
22	Α.	You know, I should I didn't recall
23	this before,	but I actually believe that I did take
24	your client	to where he wanted to go when he wanted to
25	leave.	

1	Q.	Was it Robert or was it
2	Α.	I think it was David.
3	Q.	Was it David? Okay.
4	A.	I think so.
5	Q.	Do you remember where it was?
6	A.	I think it was down to Nelson Martin.
7	Q.	Okay.
8	A.	I'm saying things that are just shadowy,
9	and I did no	t think about this before this moment.
10	Q.	I'm telling you, things pop up when you
11	start thinki	ng about something else.
12	A.	That I'm pretty sure.
13	Q.	Do you remember when that may have been?
14	A.	No.
15	Q.	Okay.
16	A.	I don't have the date because I hardly
17	had the reco	llection.
18	Q.	That's fine. We'll move on.
19	A.	But I think it's important for you to
20	understand w	hen he wanted to leave, when he walked, we
21	took him.	
22	Q.	Okay. Are you aware of any time that the
23	mentors or a	ny of the staff would have made any verbal
24	threats to a	ny of the residents about what would
25	happen if the	ey left?

1	Α.	66 And what do you class as a verbal threat?
2	Q.	Any use of force or legal process against
3	them. For e	xample, if you leave, the police are going
4	to bring you	back or something to that extent?
5	А.	We would notify the police.
6	Q.	Okay.
7	А.	Yes. That's an understood fact because
8	we will not	have a boy in the community. Our
9	community wa	s very concerned about that. That we're
LO	not going to	have boy out on the loose that are going
L1	to be a thre	at to their well-being, so the boys
L2	understood t	hat, yes.
L3	Q.	Okay.
L4	Α.	Yes.
L5	Q.	Was this something that was discussed
L6	with the loc	al police department?
L7	Α.	Yes, yes.
L8	Q.	Okay. Did you personally have those
L9	discussions?	
20	Α.	I was personally there when the police
21	were there.	
22	Q.	Okay. Tell me about that.
23	Α.	They would bring him back, and that
24	happened. T	hey brought him back and said that this is
25	the place yo	u need, and this is they're doing it

1	for your good, and it was excellent.					
2	Q.	Okay.				
3	Α.	Excellent. The police did an excellent				
4	job.					
5	Q.	Was Liberty Ridge, and I have I've				
6	only ever loc	oked at over the Google map area of where				
7	it is, but is	s it a pretty rural area?				
8	Α.	Very.				
9	Q.	Are there neighborhoods or houses around				
10	it at all?					
11	А.	Yes.				
12	Q.	About how close are the houses?				
13	А.	Part of the farm was developed, and				
14	there's approximately four or five houses at the end					
15	of the long l	ane.				
16	Q.	Oh, okay.				
17	А.	The one lane.				
18	Q.	So like walking distance, but not right				
19	next door?					
20	А.	Yes, yes.				
21	Q.	Okay. And are these just regular people				
22	from outside	the community that just bought houses in				
23	a subdivision	1?				
24	А.	Yes, yes.				
25		MS. WYNKOOP: Real quick. Can I just run				

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1	to the restroom?					
2	MS. FRANCHI: Yes. We can take a					
3	five-minute break.					
4	THE VIDEOGRAPHER: We are going off the					
5	record at 12:44 p.m.					
6	(Recess)					
7	THE VIDEOGRAPHER: We are back on the					
8	record at 12:48 p.m.					
9	BY MS. FRANCHI:					
10	Q. Now, I apologize. I'm going to jump					
11	around a little bit. While the boys were, I guess,					
12	doing their consequences, whether it be the running or					
13	any type of work or I guess anything, was there ever					
14	any food restricted or water restricted to your					
15	knowledge?					
16	A. Not water restrictions.					
17	Q. Okay. Would food ever be restricted?					
18	A. I know that they were put on rice and					
19	beans.					
20	Q. Okay. And would that be like a last					
21	resort or like when would it come to that decision					
22	that okay, we're now you're on rice and beans?					
23	A. Well, it would come with the more					
24	elevated consequences.					
25	Q. Okay.					

1	A. Certainly not at the beginning.				
2	Q. Okay.				
3	A. Yeah.				
4	Q. So it's not like you're doing your				
5	consequences, and we're going to give you chocolate				
6	chip cookies?				
7	A. That's right.				
8	Q. So let me think where I want to go with				
9	this. So you had talked this is kind of jumping				
10	back to the beginning now. You had mentioned we were				
11	talking about mental health diagnoses and people who				
12	were kind of to the point of not being able to be				
13	helped by the program.				
14	Was there ever concern with David Cross				
15	that he was just that he just had too many mental				
16	health issues to be helped at Liberty Ridge? Was that				
17	ever a discussion or a concern?				
18	A. I do not recall specific discussions, but				
19	it's certainly in the back of our minds that is this				
20	possible.				
21	Q. Okay. About how long was David placed				
22	there for?				
23	A. See, I do not have I do not have an				
24	ending date for him.				
25	Q. Okay. So if I were to say approximately				

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1	2011 to 2014, does that sound about right?
2	A. Seems long.
3	Q. Okay.
4	A. But.
5	Q. But it was longer than Robert Miller?
6	A. Yes.
7	Q. Okay. Are you aware of whether David
8	are you aware of whether David are you aware of
9	whether David was on any psychiatric medication when
10	he first came into Liberty Ridge?
11	A. I was not. I'm not personally aware of
12	what or how.
13	Q. Okay. That's not something in your
14	wheelhouse?
15	A. No. I was not in that.
16	Q. Okay. What were some of the behavior
17	I know we let me go back. We had talked about
18	obviously if a resident is in like mental distress or
19	getting violent or any type of behaviors like that.
20	But just generally speaking for the less
21	extreme behaviors, what were some of the behaviors
22	that were considered to be worthy of receiving a
23	consequence of any nature? Like what were the typical
24	things that you would see or hear about?
25	A. A very typical one is back talk to a

1	71 and resisting authority. Not playing fair in a game.					
2	You know, wanting to kick and shove. Just being					
3	difficult.					
4	Q. What about speaking out against the					
5	mentors and speaking out against the mentors'					
6	behaviors? Is that something that the mentors could					
7	then give them a consequence for?					
8	A. The mentors would not give a consequence.					
9	Q. Okay. So that wasn't something discussed					
10	with mentors about doing that. Like if they're					
11	speaking out against you, you need to give them a					
12	consequence wasn't					
13	A. You mean that I would delegate a mentor?					
14	Q. Yeah.					
15	A. No.					
16	Q. Okay.					
17	A. No.					
18	Q. And you had said that the mentors were					
19	generally watched over, but not all the time?					
20	A. That's right.					
21	Q. Okay. So sometimes the mentors' actions					
22	were at their own discretion when there wasn't					
23	somebody, you know, standing over them directing them					
24	like Ethan or you or I just keep using the names of					
25	the people who I've talked to so far?					

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A. Yeah. Like if the mentor and his
resident would walk through the chicken house, the
department head wouldn't be with them at that point.
Q. Right. Okay. Were there any policies
that you were aware of or any direction given to the
Liberty Ridge staff on how to handle a situation if a
resident were to express any suicidal ideations or
suicidal gestures or anything to that effect?
A. In cases like that they would contact us,
and we would go into sit down with them. Talk it
over. Work through it. That kind of thing.
Q. Okay. Are you aware of any time that
either during 2011 to 2014 or any other time that any
child was in so much distress that they were brought
immediately to like a hospital or a crisis center or
anything like that?
A. When you say any other time, are you
referring to after 2014?
Q. Yeah, just generally.
A. I do not recall having that happen.
Q. Okay. Did the committee ever consult
with a medical professional of any type or
psychological or psychiatric professional of any type
about the I guess whether or not the form of the
consequences or the type of work at Liberty Ridge or

1	anything like that would cause any psychological harm?
2	MS. WYNKOOP: Objection to form.
3	A. Yes. We would have had input. Now,
4	specific to this era, I cannot recall that era.
5	BY MS. FRANCHI:
6	Q. But it may have been sometime afterwards?
7	A. Oh, we definitely do.
8	Q. Okay. So I guess to start to wrap this
9	up a little bit, I know we're talking this case about,
10	I guess, the early on years of Liberty Ridge?
11	A. Yes.
12	Q. Have things developed and changed since
13	that time? I mean that was a long time ago now. So
14	since about 2014, tell me about some of the changes
15	that have been made and some of the developments in
16	just how things are handled.
17	A. They're handled very similarly to the way
18	they were in a lot of ways, but some things that have
19	changed perhaps are that we have more we had a
20	bigger program going recently, so we had reasons to
21	have more department heads.
22	We have which we talked about the
23	house parent, work coordinator, those are individual
24	people now rather than both in one like Ethan was.
25	And a guidance coordinator which gives which does

1	74
	personal consulting. Having personal interviews with
2	the boys once a week. Teaching the Bible classes.
3	Coordinating all the phone calls and letters that come
4	in and visits with the parents and all that. That's a
5	guidance coordinator.
6	So we have what changed is that we
7	have more adult I'll call them adult supervision on
8	hand. More collaboration of working together. That
9	brings more of a balance.
LO	Q. So it's not like Ethan being stretched
L1	thin all the time?
L2	A. That's right. That's right.
L3	Q. Okay. And then you said that there may
L 4	have been talks after, I guess, the era of the case
L5	with like therapists or, you know
L6	A. Yes.
L 7	Q. Okay. And what brought about those
L8	conversations?
L9	A. Well, when we when we have a boy that
20	has mental issues, is on medication or isn't on
21	medication, we've taken numerous boys to Dr. Walker,
22	and he has he has just endorsed our program to the
23	fullest.
24	Q. And is that what came about with the
25	development of the new policy handbook was just the

1	kind of development of the program?
2	A. Well, the new policy included more just
3	details as you sort of evolve and just brings more in,
4	and I'm not sure exactly like I can say what all went
5	into that, but a refinement of the policy, yes.
6	Q. Okay. And this would be just, you know,
7	learning from past residents?
8	A. Yes.
9	Q. Past mistakes or just ways of handling
LO	things?
L1	A. Yes, and other institutions, and we're
L2	always reaching out to learn more and from the
L3	psychologists that help us, you know.
L4	MS. FRANCHI: Mm-hmm. I think that might
L5	be everything. We don't need to go off the record,
L6	but I'm just going to pause for just a second. I want
L7	to take a look through everything, and then it might
L8	be about it. So bear with me for just a second.
L9	I think that is everything. I always
20	scribble notes as I'm going through, and then I have
21	to go back and be like why did I write those notes.
22	MS. WYNKOOP: Yeah. Me, too.
23	MS. FRANCHI: I think that takes care of
24	everything that we need today. So do you have any
25	questions?

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                   MS. WYNKOOP: I do not have any
 1
     questions.
 2
                                        This marks the end of
 3
                   THE VIDEOGRAPHER:
     the deposition of Gerald Nolt. We are going off the
 4
     record at 12:59 p.m.
 5
                   (The deposition was concluded at 12:59
 6
 7
     p.m.)
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1	COMMONWEALTH OF PENNSYLVANIA)) SS.	77
2	COUNTY OF YORK)	
3	T. The second of Decides and Second	
4	I, Tracy L. Lloyd, a Registered Professional Reporter and Notary Public in and for	
5	the Commonwealth of Pennsylvania and County of York, do hereby certify that the foregoing	
6	testimony was taken before me at the time and place hereinbefore set forth, and that it is the	
7	testimony of:	
8	GERALD NOLT	
9	T. C. 11. 11. 11. 11. 11. 11. 11. 11.	
10	I further certify that said witness was by me duly sworn to testify the whole and	
11	complete truth in said cause; that the testimony then given was reported by me stenographically, and	
12	subsequently transcribed under my direction and supervision; and that the foregoing is a full, true	
13	and correct transcript of my original shorthand notes.	
14	I further certify that I am not counsel for nor related to any of the parties to	
15	the foregoing cause, nor employed by them or their attorneys, and am not interested in the subject	
16	matter or outcome thereof.	
17	Dated at York, Pennsylvania, this 1st day of November, 2022.	
18	Mary & Mary & Shark	
19	July July	
20	Tracy L. Lloyd, Notary Public	
21	Registered Professional Reporter	
22	(The foregoing certification does not apply to any	
23	reproduction of the same by any means unless under the direct control and/or supervision of the	
24	certifying reporter.)	
25	My Commission expires: April 21, 2023	

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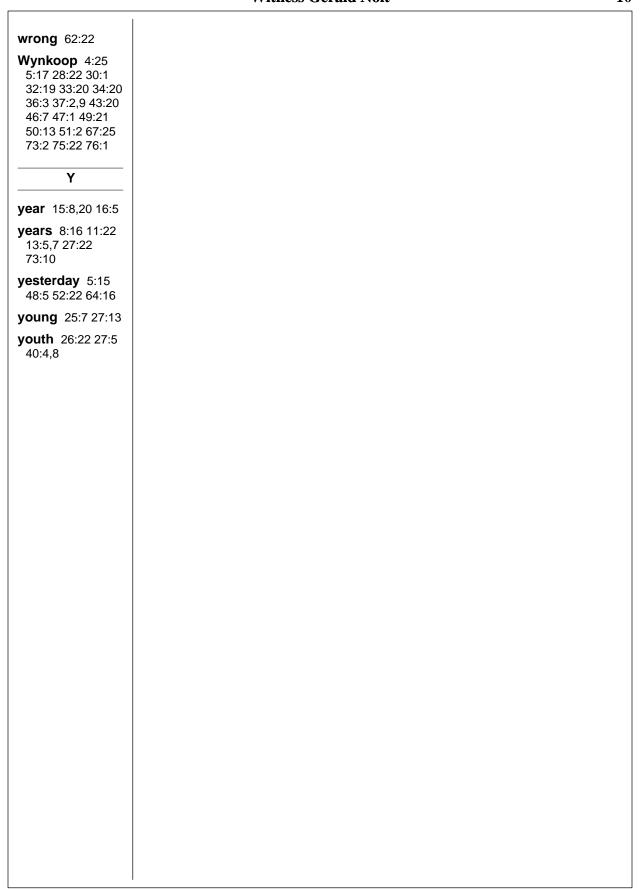


EXHIBIT G

MARGOLIS EDELSTEIN

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Email: mmiller@margolisedelstein.com

BY: Meghan Wynkoop, Esquire Identification No.: 324242

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Tel: (215) 931-1100 Fax: (215) 922-1772 Attorneys for Defendants
Nelson Martin d/b/a Liberty
Ridge Farm, Eastern Pennsylvania
Mennonite Messianic Mission of the

Eastern Pennsylvania Mennonite Church

D.C. and R.M.,

:

Plaintiffs,

٧.

Case No.: 5:21-CV-05070-JMG

NELSON MARTIN d/b/a LIBERTY RIDGE FARM, LIBERTY RIDGE FARM, EASTERN PENNSYLVANIA MENNONITE CHURCH AND RELATED AREAS, and MENNONITE MESSIANIC MISSION OF THE EASTERN PENNSYLVANIA MENNONITE CHURCH,

:

Defendants.

AFFIDAVIT OF BILL CROSS

I, Bill Cross, affirm according to law and subject to the penalties of 18 Pa.C.S.A. Section 4904, relating to falsifications to authorities, depose and state the following:

I am the father of David Cross, former resident at Liberty Ridge Farm and
 Plaintiff in this lawsuit.

2. In 2011, I voluntarily enrolled my son into Liberty Ridge Farm because I was

struggling to care for him.

3. I believed that Liberty Ridge Farm would be a good place for my son to improve

on his discipline and social skills, as well as prepare him to enter society.

4. I voluntarily completed an Application, Power of Attorney, and Medical

Authorization forms for David Cross, allowing the Liberty Ridge Farm administration to care for

David.

5. I was aware that the programming at Liberty Ridge Farm consisted of schooling,

bible study, and various vocational skill-building projects, such as tending chickens and painting

fences.

6. As part of his enrollment at the Farm, I sent tuition payments on a monthly basis,

as long as I was financially able.

7. I was neither solicited nor coerced to enroll my son into Liberty Ridge Farm.

8. My son was neither solicited nor recruited to join Liberty Ridge Farm.

9. I was able to visit David during his time at Liberty Ridge Farm.

10. At any point during David's time at Liberty Ridge Farm, David could return to

our residence if we no longer wished for him to remain at Liberty Ridge Farm.

11. I do not agree with David filing this lawsuit.

BILL CROSS

Father of Plaintiff, David Cross

Date: 12/9/22

EXHIBIT H

Dear Liberty Ridge Bays

I really hope that this letter reaches you all safe + sound! How is every body doing up there by now? I'm not doing to bad at all for considering that I've been in Jail for Almost six month's now!

It is my prayer for you young men that you are reading your bibles t putting the scripture to practice for the persecution you could face in the end times.

When I was in LRF I thought that I had it ruff t that

Ethan + the Mentors were unfair, but you guys don't know what the word's cruel tunfair are until you have done jail time + let m = tell you right now, LRF is a place to keep you from coming to jail. Take the lesson's tualues that you are learning and keep them,

practice them till the day you die, I don't know all your names any more but in here I am eating my Breakfast Lunch t dinner beside Murders, tapist, thieves, liars, drug users, drug dealers I see it all + its horrifying.

The beds you boy's are not what you need they are a priviledge, how sout sleeping on A 3" mattress stuffed with cellulose on a Metal bunk 10 pillow no real blankets? You boy's want to do that for the rest of four lives? Try doing & living like the prodigal Son & you will. I did two months in a place right like Loysville detention Center for 12-18 yrolds my friends its worse than here! you only get to call your Legal guardian since a week for 5 minutes! Big boy Jails you pay for your call + its. 5 minutes long.

When I came to jail the first time I saw & people commit suicide, My own cell mate was one, in here its totall negativity, caous +

, traight Hell on earth.

-o a bar, Stripping Clubs, Watching porn is what you want to be able

Sincerely David Cross

8801-SI # 040MI T-660

CE1131719

int dont say Inever Warned you doil is real ... in the road for your patheticstupid pervented passion to please yourself ite Casualy do drugs go thread go do it get drunk & driving + Kill somoene of thelite, you want to die in Jall + be buned in astate Prison grove yord) fa finy blockgirl, Ive drank, done Heroine, Pot, Cruck, Cocaine let me tell you is I ve done it all, Had sex with ungodly womant may possably be the father xck to Jail I will be going to Camp Hill & then another State Pen for 3-6 years stop living Acheistion life? If so I will see you here If I ever come 204 Living a life you have just been described? Hre you readilly Willing to I will be out of Joil on Il/11/16 I came in an 3/16/15 50 how life in the hole. hand cutte no phone calls no Watching Iv, no visits from your family thats I have been into two fights and sat in the hole for 30 days, the next time I go to the hole it will be for 6 months to a year, how bout living in the judge no Love of mine was lost this man will now do life in Jail. 4 raped them postmorten he went to court with a smile on his face + told + doughter he posted Bail + Want back stabbed the Mother & adoughters led them to other evilthings, men who are in here fore drinking, I even deal with a grown man who is black has Kids & he is bere for rape of a mother I know grown men who are in Jail here for wotching point graphy which Maximum Security Prisan & you see me inhere don't say I didn't warmyou to do go ohead; but remember when you come to Lancaster County

My Prison Song
If I had the wings of an angel
over these Prison Walls I would Fly.
Id fly to the arms of my loved ones
and there Id be willing to die.
Please meet me alone in the moonlight
or meet me alone in this cell.
For I have a Sad story to tellyou
a story that s never been told.
Tommorow I'll be taken to Prison, For
away from my Loved ones I'll be.
Oh I can't wait to go on to heaven
and there with my Lord I shall be.

Sincerely

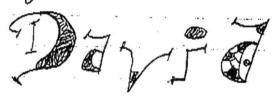




EXHIBIT I

Comments

Page 546 of 772 Filed 01/20/23 Case 5:21-cv-05070-PAC Document 44-1

To the Parent:

this report and return the report to school promptly. Please sign your name to show that you have read

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Second Report _

Third Report

Final Recommendation

In view of the performance shown on this report,

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	<u> </u>
	grade
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school term.

for the

Eastern Mennonite Publications Ephrata, Pennsylvania 17522 40 Wood Corner Road

"The fear of the Lord is the beginning of wisdom." Psalm 111:10

To the Parents:

read it carefully and discuss it with your child. formance in his studies and conduct at school. Please This report is to inform you of your child's per-

his teacher. encourage you to discuss your child's progress with child does his best at school. We invite you to visit school and observe your child at work. We also The school requests your support so that your

The School Board and Teachers

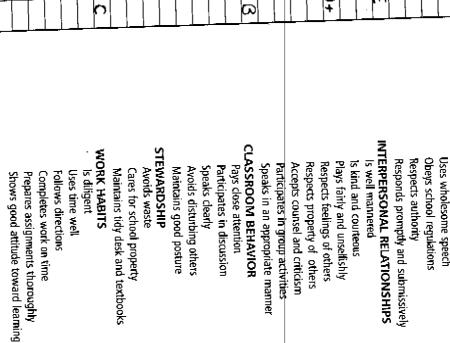
Report Card

Grade

School Year 20 13 - 20

Mennonite School

REPORT PERIODS BIBLE MEMORY ARITHMETIC SOCIAL STUDIES SCIENCE/HEALTH Senses meaning of Bible lessons PENMANSHIP Remembers Bible stories Reads with expression Reading workbook Reads with understanding Phonics Uses correct grammar Writes good compositions Knows number facts Understands reading problems Grasps new concepts Figures accurately Spells correctly in all subjects Prepares for weekly tests Remembers important facts Understands science concepts Understands maps Understands important ideas Participates in singing Does all written work neatly Forms letters correctly Learns the rudiments Ç Ÿ þ + Avg 0+



CONDUCT GRADE

REPORT PERIODS

SPIRITUAL AND MORAL TRAITS

Is reverent during worship

Takes spiritual matters seriously

Exercises self-control Is honest and trustworthy

ATTENDANCE Days Absent

TOTAL DAYS PRESENT Days Tardy

(62 and below)

Failing Work—Needs Great Improvement to Pass Failing Work—Needs Improvement to Pass

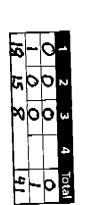
(70-75)(76-85)

> Poor Work Fair Work

(63-69)

(94-100)(86-93)

> Good Work Excellent Work



Key to Subheading Marks

+

Key to Conduct Grades (and First Grade Subjects)

Needs Improvement Unsatisfactory

Satisfactory

I.	(no mark)	Ŧ
Needs Improvement	Satisfactory	Commendable

EXHIBIT J

In the Matter Of:

D.C. AND R.M. vs.

NELSON MARTIN, et al.

Dana Ressler

October 18, 2022

HKW, LLC 764 Corporate Circle, Suite 200 New Cumberland, PA 17070 717.214.1182 Schedule@hkwllc.com



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. AND R.M.,

Plaintiffs

vs.

NELSON MARTIN D/B/A

LIBERTY RIDGE FARM, : CIVIL ACTION
LIBERTY RIDGE FARM, : NO: 5:21-CV-05070-JMG
EASTERN PENNSYLVANIA :

MENNONITE CHURCH AND RELATED AREAS, AND MENNONITE MESSIANIC MISSION OF THE EASTERN

PENNSYLVANIA MENNONITE CHURCH,

Defendants :

DEPOSITION OF: DANA RESSLER

TAKEN BY: PLAINTIFFS

REPORTER: TRACY L. LLOYD, RPR

NOTARY PUBLIC

KYLAN BARRY, VIDEOGRAPHER

OCTOBER 18, 2022, 12:37 P.M. DATE:

PLACE: MARGOLIS EDELSTEIN

214 SENATE AVENUE, SUITE 402

CAMP HILL, PENNSYLVANIA

1	APPEARANCES:	2
2	ANDREOZZI & FOOTE	
3	BY: RENEE E. FRANCHI, ESQUIRE 4503 NORTH FRONT STREET	
4	HARRISBURG, PENNSYLVANIA 17110 (717) 686-9936 Renee@vca.law	
5	For the Plaintiffs	
6	MARGOLIS EDELSTEIN	
7	BY: MEGHAN WYNKOOP, ESQUIRE JOCELYN MENDEZ, ESQUIRE	
8	THE CURTIS CENTER, SUITE 400E 170 SOUTH INDEPENDENCE MALL W.	
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10	mwynkoop@margolisedelstein.com	
11	For the Defendants	
12	FOI the Defendants	
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-	VVIII DE DE MINI ACCIONA	
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2	EXAMINATION PAGE	
3	DANA RESSLER	
4	By Ms. Franchi 5	
5	By Ms. Wynkoop	
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4 1 STIPULATIONS 2 It is stipulated and agreed by and between 3 counsel for the respective parties that the reading, signing, sealing, and filing of the transcript is 4 waived and that all objections, except as to the 5 form of the question, are reserved to the time of 6 7 trial. 8 9 Here begins Media THE VIDEOGRAPHER: 10 Number 1 in the videotaped deposition of Dana Ressler 11 in the matter of D.C. and R.M. v. Martin, et al., in 12 the United States District Court for the Eastern 13 District of Pennsylvania, Case Number 14 521-CV-05070-JMG. 15 Today's date is October 18th, 2022. The 16 time on the video monitor is 12:37 p.m. 17 videographer today is Kylan Barry representing Planet 18 Depos. This video deposition is taking place at 214 19 Senate Avenue, Suite 402, Camp Hill, PA, 17011. 20 Would counsel please voice identify 21 themselves and state whom they represent. 22 MS. FRANCHI: My name is Renee Franchi. 23 I am an attorney with the law firm of Andreozzi and 24 Foote, and I represent the Plaintiffs in this matter. 25 Meghan Wynkoop, Margolis MS. WYNKOOP:

1	5 Edelstein, and I represent the Defendants.
2	MS. MENDEZ: Jocelyn Mendez, Margolis
3	Edelstein, and I represent the Defendants.
4	THE VIDEOGRAPHER: The court reporter
5	today is Tracy Lloyd. Will the reporter please swear
6	in the witness.
7	
8	DANA RESSLER, called as a witness, being
9	affirmed, testified as follows:
10	
11	MS. FRANCHI: May we begin?
12	THE VIDEOGRAPHER: Yes.
13	
14	EXAMINATION
15	
16	BY MS. FRANCHI:
17	Q. And we'll just keep the same preliminary
18	issues that we put on the first transcript instead of
19	repeating them for the next three and half a days.
20	All right. Good afternoon, Mr. Ressler.
21	As I stated, my name is Renee Franchi. I represent
22	the Plaintiffs David Cross and Robert Miller in this
23	matter. Thank you, first of all, for being here with
24	us today and driving in from Delaware. Hopefully
25	we'll get this done as quick as possible.

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Witness Dana Ressler

6 So we have some preliminary matters to kind of go over just so you know the expectations and the rules for the deposition today. The preliminary matters will probably take about as long as the actual questions in this case. So the first thing that I'd like to go over with you is that when I or your attorney ask you any questions, that you must give a verbal answer. That means not to use a non-verbal response such as uh-huh or a head shake or a head nod. This is because we do have the stenographer here who is typing down all the questions and answers and can only type down verbal responses. So will you be able to only give verbal responses to the questions today? Α. Yes. You'd be surprised at how many people 0. answer that with saying uh-huh, and I'm like oh. Next, if you're asked a question that you don't understand or that doesn't make sense, whether it be because it's worded confusingly or for any other reason, please feel free to say that you do not understand the question or please just ask me to repeat the question. Is that something you can do? Α. Yes. In that same light, if you're Q. Okay.

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Witness Dana Ressler

7 asked a question and you do answer with a verbal response, then I will assume that you understood the Is that fair? question. Α. Yes. So if you do need to take a break at any 0. point during your deposition, to get something to drink, to stretch your legs, or for any other reason, that's perfectly fine. Just let me know. The only restriction is that if you are asked a question, that you may not take a break until the question is Does that make sense? answered. Α. Yes. Okay. So during this deposition I may or 0. may not ask you to estimate or approximate something if you do not recall it specifically like a date or a Please don't simply like guess or take a stab in the dark. If you do think you can give a fair estimation or approximation, please do so and please let me know. For example, if I ask you if you know when an event happened, and that it was within a time frame, say, between 2000 and 2004, for example, between two specific years, it's fair to say that you don't remember exactly when the event occurred, but that it happened between maybe these two years.

	8
1	That's completely fine.
2	If you simply do not know or do not
3	remember or you're uncertain, please say so. Is that
4	fair?
5	A. Yes.
6	Q. The last and most important thing is that
7	you tell the truth today. So is there anything that
8	would prevent you from being able to fully testify to
9	the truth today?
LO	A. No.
L1	Q. Okay. All right. So I'm just going to
L 2	ask you some general background questions first.
L3	Obviously, I've never met you or spoken with you
L 4	before other than preliminarily today, so just to get
L5	to know you a little bit.
L6	Before we do that, do you have any
L7	questions for any of us before we start or are you
L8	ready to just keep going?
L9	A. I'm ready to go.
20	Q. All right. So first is there anything
21	that you did to prepare for the deposition today other
22	than speaking with counsel?
23	A. Basically would have been with counsel
24	and with the group that's working on this.
25	Q. Okay. Did you review any documents in

		9
1	preparation?	
2	A.	I reviewed part of the discovery.
3	Q.	Okay.
4	A.	Yeah, discovery.
5	Q.	Okay. So just to start off, if you
6	could, just	state your full name again.
7	A.	My name is Dana Ressler.
8	Q.	And could you spell your last name,
9	please?	
10	A.	R-e-s-s-l-e-r.
11	Q.	And what's your date of birth?
12	A.	December 20th, 1950.
13	Q.	Where were you born?
14	A.	Wadsworth, Ohio.
15	Q.	And where do you live now?
16	A.	I live in Newark, Delaware, 497 Gender
17	Road.	
18	Q.	How long have you lived in Delaware?
19	A.	Since I was 19, so I would say about 50
20	some years.	
21	Q.	Okay. And what do you do for a job,
22	Mr. Ressler?	
23	A.	I have a landscape contractor business.
24	Q.	Okay. What's it called?
25	A.	Keener Sensenig. K-e-e-n-e-r. Sensenig

1	is S-e-n-s-e	-n-i-g. That is not as unfamiliar to
2	Pennsylvania	, but it is in Delaware.
3	Q.	And is that a
4	A.	It's an LLC.
5	Q.	Okay. And you operate that out of
6	Delaware?	
7	A.	Yes.
8	Q.	Do you ever do any work in Pennsylvania
9	or is it just	t generally
10	A.	Small amount in Pennsylvania up 476 some.
11	Q.	Okay.
12	A.	And we do a little bit in Maryland and a
13	little bit i	n New Jersey.
14	Q.	What type of landscaping?
15	A.	We do everything from installation to
16	maintenance,	and then we do a lot of hardscaping. We
17	have a hards	caping division.
18	Q.	Okay. How long have you had this company
19	for?	
20	Α.	I bought it in 1972.
21	Q.	Okay.
22	Α.	So 50 years.
23	Q.	So you've been running it since then?
24	Α.	I started running it two months after I
25	came.	

1	Q.	Okay. What's your education level?
2	Α.	12th grade.
3	Q.	Okay. And where did you graduate high
4	school from?	
5	Α.	Wadsworth High School in Ohio.
6	Q.	Okay. So when you moved to Delaware, it
7	was when you	were an adult after you graduated?
8	Α.	Yeah. Right.
9	Q.	What brought you to Delaware?
10	A.	I was a conscientious objector, and I
11	served in the	e Wilmington Hospital for two years in
12	lieu of milit	cary service.
13	Q.	And that was during the Vietnam conflict?
14	Α.	The Vietnam war.
15	Q.	Okay. And I can probably assume the
16	answer, but	you can read, write, and understand
17	English?	
18	Α.	Yes.
19	Q.	Okay. Have you ever been charged with or
20	convicted of	a crime?
21	Α.	No.
22	Q.	And are you married, sir?
23	Α.	Yes.
24	Q.	What's your wife's name?
25	Α.	Mary Jane.

		Ţ
1	Q.	Do you have any kids?
2	А.	Yep.
3	Q.	How many?
4	A.	Three girls and three boys.
5	Q.	Oh, boy.
6	A.	That's six.
7	Q.	Are they all adults?
8	A.	Yes.
9	Q.	Okay.
10	A.	Youngest one is 33.
11	Q.	Okay. So you just live with your wife?
12	A.	Basically, except when the girls come
13	home.	
14	Q.	Sometimes by choice, sometimes
15	involuntaril	λ.
16	A.	Yeah.
17	Q.	And do you you know what, I'm going to
18	just strike	through some of these questions, and we're
19	just going to	o keep going. So all right. I'm going to
20	ask you some	general questions just beginning with the
21	Eastern Penn	sylvania Mennonite Church.
22		I want to apologize ahead of time if some
23	of the quest	ions are worded strangely or I'm using the
24	wrong term to	o refer to something, please correct me.
25	A.	Okay.

	1 2
1	Q. I am learning as I go and am often
2	incorrect.
3	A. We understand that.
4	Q. Okay. I always want to make sure that I
5	put that out there first. So if I say anything that
6	is not right, I don't mean to be offensive.
7	A. You won't.
8	Q. Okay. I guess just kind of starting from
9	the basics, can you just explain to me what the
LO	Eastern Pennsylvania Mennonite Church is?
L1	A. The Eastern Pennsylvania Mennonite Church
L2	is a name which was chosen for a group of believers
L3	that practiced the same things.
L 4	Q. Okay. Is it an organization in the sense
L5	of, you know, it's like a registered corporation with
L6	an address and a board of directors or is it more
L 7	nebulous?
L8	A. More nebulous.
L9	Q. Can you explain a little bit more about
20	how that is and just the kind of structure or lack
21	thereof?
22	A. As I said, it was formed because there
23	was a group of people who were not satisfied with the
24	church they were going to and wanted to practice more
25	traditional Mennonite ways.

14 1 As they began their group in the 2 Lancaster area, they became called the Eastern 3 Pennsylvania Mennonite Church. There is no structure, 4 but each congregation has a structure in their congregation. But voluntarily these congregations can 5 join -- can ask to be a part of the Eastern 6 7 Pennsylvania Mennonite Church. It is what we call a conferring 8 9 fellowship where we have meetings a couple times a year where the ministry go, and they discuss issues, 10 11 how we want to respond to them, but there is no 12 There is no -- has a little section of treasury. 13 bylaws, but there is no set up of LLC, 501, or 14 anything like that. 15 So when the ministry, I quess, Okav. Ο. 16 kind of officials meet however many times a year it 17 is, is it, and please correct me if I'm wrong just so 18 I'm understanding correctly, is it more just so that 19 all the different congregations are kind of following 20 the same sets of rules and guidelines and things like 21 that? 22 Right. And we may be having some Α. 23 particular problem that we want to discuss how could 24 we handle this problem. Part of the meeting is open 25 to the public, and part of the meeting is open to

15 1 ministry only. 2 0. Okay. So then when people talk generally 3 about the Eastern Pennsylvania Mennonite Church, and they say the church, they're generally then speaking 4 about this, again, kind of nebulous collection of 5 thoughts and not necessarily a physical like this is 6 7 the church? That is correct. 8 Α. 9 Okay. So even though there really 0. 10 isn't -- I don't want to say there isn't an 11 organization. That's not the word that I mean, but 12 even though it's not a business in the traditional 13 sense, what is considered to be the like home base? 14 Is there like a place that you meet or does it change? 15 It changes. Geographically there are Α. 16 districts of congregations, and so each one has an 17 opportunity to share the meetings. So we will travel to those areas for the meeting. 18 19 The districts of congregations, 0. Okay. 20 about how big are they geographically or does it depend? 21 22 Because of growth, sometimes a district 23 is formed because there is a bishop who maybe is in 24 that direction or -- and so our district that I'm a 25 part of reaches from Florida to -- well, it's in

	16
1	Lancaster area.
2	Q. Okay. So it really does depend?
3	A. Yeah, it depends.
4	Q. Okay. About how many congregations are a
5	part of the
6	A. There's 92 I think.
7	Q. Okay. About how many members does that
8	encompass?
9	A. About 7,000.
LO	Q. Oh, wow. Okay. And this is all over the
L1	United States and other countries?
L2	A. And Canada as well well, most of our
L3	Canadian ones are in Manitoba and in northwest like in
L4	B.C. It does have foreign churches as well where
L5	we've started missions.
L6	Q. Okay. So I'm guessing then this kind of
L7	goes without saying, so the Eastern Pennsylvania
L8	Mennonite Church doesn't have like a bank account or
L9	an office or maybe contracts?
20	A. Absolutely no bank account.
21	Q. Okay.
22	A. If you would look in our directory, you
23	would see that it has an address, 40 Wood Corner Road,
24	Ephrata, Pennsylvania. That address is for mail, I
25	guess if somebody wanted to write to us who knew about

	17
1	us. That is actually our publication office.
2	Q. Okay.
3	A. And they would take the mail and say, you
4	know, they'd open it and say this belongs to this
5	person or whatever.
6	Q. Just forward it along accordingly?
7	A. Right. So there is no we have no EPMC
8	meetings at that place.
9	Q. Okay. Okay. So the individual
10	congregations, who then decides, I guess, the
11	leadership officials at each of the congregations,
12	and, again, I apologize if I I was raised Catholic,
13	so I understand, you know, there are priests, and I
14	understand that. So, again, if I'm getting this
15	wrong, please let me know.
16	Within each individual congregation, who
17	is like the leader of the congregation?
18	A. Okay. Well, probably you can get me
19	started, and we'll be here all afternoon because I
20	love the Mennonite church. So your question is on the
21	leadership. We have all of our leaders are
22	ordained from within the congregations.
23	Q. Okay.
24	A. So we have no formal we have training,
25	but no formal training in divinity.

1	Q.	Okay.
2	A.	I am a deacon. There are ministers and
3	bishops. The	e bishops normally are over six or seven
4	or eight chu	rches.
5	Q.	Okay.
6	A.	The ministers are local, and the deacons
7	are local.	
8	Q.	Okay. So then that would go into my next
9	set of quest:	ions. Explain your role to me.
LO	A.	My role in my congregation or my role in
L1	Eastern Penns	sylvania Mennonite Church?
L2	Q.	Both.
L3	A.	In the congregation I was ordained a
L4	deacon in 198	33, and in 19 and we are ordained for
L5	life unless v	we ask for, you know, resign, our health
L6	prohibits.	
L7		Normally along the way a younger man
L8	as we get old	der, fifties and sixties, a younger man is
L9	ordained that	t we are somewhat supposed to train, and
20	our roles are	e to keep the records of the church, the
21	financial red	cords, to help the people in need, to
22	preach occas:	ionally, help with the ordinances like
23	communion, e	tcetera. Somewhat like your deacons do.
24	The second -	- and so I was ordained for that, and we
25	have a younge	er deacon that takes care of a lot of the

	19	
1	nitty-gritty anymore.	
2	So some of the older deacons, and we also	
3	take some of the younger ones along as well, are	
4	called by the Eastern Pennsylvania Mennonite Church to	
5	work on particular cases to help. So somebody, I	
6	don't remember who, asked me if I would help with the	
7	case of Liberty Ridge.	
8	All I knew about Liberty Ridge was that	
9	it was a place for boys. Never had been there. I	
LO	knew some people that had worked there. I knew	
L1	people, but I never been there. And so I took that as	
L2	something I could accept, and I did. That's how I'm	
L3	here.	
L 4	Q. Okay. Your role within your congregation	
L5	currently and then generally with the Eastern	
L6	Pennsylvania Mennonite Church, then I can assume that	
L7	you're not paid through the Eastern Pennsylvania	
L8	Mennonite Church that does not have a bank account?	
L9	A. Everything we do is voluntary.	
20	Q. Okay. That was going to be my next	
21	question then. For your congregation then, is it also	
22	a voluntary position?	
23	A. That's correct.	
24	Q. Okay.	
25	A. All bishops, ministers, and deacons serve	

	20
1	voluntarily. Now, there is a gift at times given to
2	them for serving.
3	Q. Okay.
4	A. But it's a voluntary thing.
5	Q. Okay. So individually within
6	congregations, are members of the I'm going to call
7	it the EPMC so I don't have to keep
8	A. Please.
9	Q. Yeah. So if people are donating to the
LO	church or tithing, I think, I don't know if you use
L1	that term or not, is that going to individual
L2	congregations then or, again, does it depend? It's a
L3	very lawyerly answer, it depends, but I'm used to
L 4	that.
L5	A. Okay. I think I gathered what you're
L6	asking. We take an offering on Sunday morning which
L7	is a voluntary offering.
L8	Q. Okay.
L9	A. We suggest tithe and that type of thing,
20	but it's a voluntary offering.
21	Q. Okay.
22	A. It is announced usually either by
23	schedules printed or on the Sunday prior that we will
24	be lifting an offering for a particular thing.
25	Q. Okay.

A. So let's say we decided to lift an	
offering for Liberty Ridge as a congregation. You'd	
have the opportunity to give if you wanted to, and it	
would be forwarded to the Liberty Ridge treasury.	
Q. Okay.	
A. The Mennonite Messianic Mission, a lot of	
churches lift an offering once a month for the	
Mennonite Messianic Mission because we have a lot of	
foreign missions.	
Q. Okay.	
A. So that's how it's done. One Sunday	
we'll lift it for the expenses of the congregation.	
Q. Okay.	
A. One Sunday we'll lift it for maybe	
someone who has a hospital need. We do not carry	
insurances, so that's one of the deacon's big jobs is	
to settle insurance claims and take care of making	
sure the person is paid, etcetera.	
Q. Okay. So you had mentioned the Mission	
or generally Liberty Ridge and asking for offerings,	
is that at the direction of the Mission or would that	
be at the discretion of the congregation?	
A. Discretion of the congregation.	
Q. Okay.	
A. No one asks for money.	

22 1 So when the congregation decides Q. Okay. 2 at their discretion that, say, they are going to -again, not specifically Liberty Ridge or the Mission, 3 but just because they're involved, I'll just keep 4 5 using them. If the congregation decides that one 6 7 Sunday they are going to ask for -- oh, my gosh. Ι 8 cannot speak today. That they are going to ask for 9 donations for the Mission, then does the Mission, you 10 know, put out a directive or ask anybody and say hey, 11 we're in need of any money, and then at their 12 discretion they ask for it at the congregation or how 13 does that come about? 14 Α. Very rarely would anyone ask for it. 15 0. So are there, you know, a set of 16 rules written down or a book or something like that 17 for members of the EPMC to say, you know, this, other 18 than the Bible, I mean another like set of hard rules 19 or anything that's written down to say, you know, this 20 is what you need to live by, this is what you need to 21 do to be a member? 22 We have a statement of practice for Α. Yes. 23 Eastern Pennsylvania Mennonite Church. 24 Q. Okay. I think it's called statement of 25 Α.

		0.3
1	instruction and	23 discipline for Eastern Pennsylvania.
2	Q. An	nd is that is it guidelines or is it
3	like these are	rules that you have to
4	A. Th	ere are some rules. There is also the
5	guidelines in t	there for the MMM.
6	Q. Ok	cay.
7	A. Th	ere's guidelines in there for Eastern
8	Pennsylvania Me	ennonite Church.
9	Q. Ok	cay.
10	A. Ar	nd its formation.
11	Q. Yo	ou had said that individuals in
12	congregations of	an obviously, they can leave if they
13	would like to.	Is there ever a time where members are
14	asked to leave	by church leadership or they must leave
15	or is that beyo	and the scope of what the religious
16	leaders within	the EPMC can do?
17	A. We	e would never ask anyone to stop coming
18	to church.	
19	Q. Ok	cay.
20	A. Bu	at if you decide you do not want to
21	abide by the ru	ales of the church, you would eventually
22	have your membe	ership removed.
23	Q. Ok	cay.
24	A. Bu	at you can still come.
25	Q. Ok	ay. So are there any rules or

24 1 guidelines set forth by the EPMC generally about 2 employment or labor or anything about when, you know, children are supposed to begin working or is it up to 3 their families and their congregations? 4 I guess what I'm getting at is everybody 5 has this idea when they, you know, think of the 6 7 community of saying, you know, there's always children that start working on farms at the age of four. What 8 I'm getting at is is that a family decision or is that 9 10 everybody is different or is there like a rule that 11 says when a child is 12, they can start doing this 12 kind of work? 13 Α. There are no rules that way. 14 And, again, it was a very 0. Okay. 15 long-winded way of asking the question, but I just 16 wanted to make sure I was communicating it --17 Α. Yes. 18 Q. -- appropriately. So are there any rules 19 or restrictions to people within the EPMC community 20 seeking medical care from psychiatrists or certain 21 doctors or are people free to seek whatever type of 22 medical treatment or care that they desire? 23 Α. Yes. 24 Yes meaning they can do whatever 0. 25 they need to or --

	25	
1	A. Yes.	
2	Q. Okay.	
3	A. They may do whatever they feel they need	
4	to.	
5	Q. Okay. So is there such a thing as	
6	excommunication from the EPMC, and is that a common	
7	practice?	
8	A. There is no excommunication from EPMC.	
9	There could be excommunication from a congregation.	
10	Q. Okay. And is that I guess just in	
11	your general experience, what does that encompass and	
12	how would that come about?	
13	A. As I said, if a person did not abide by	
14	the rules that we have set up, they would probably	
15	choose to leave. But occasionally in our	
16	congregation I'll give one example. In our	
17	congregation, one of the most recent excommunications	
18	was a man left his wife and went to another woman. He	
19	withdrew his membership, but he was actually announced	
20	to have terminated his we terminated his membership	
21	as well.	
22	Q. Okay. And, again, I appreciate you	
23	bearing with me as I'm asking some of these questions.	
24	A. Oh, please.	
25	Q. I just want to make sure that I'm getting	

it correct. So is there a requirement that people	
participate monetarily within their congregations or	
to the Mission or any of the other organizations?	
A. No requirement whatsoever.	
Q. Okay. So you had mentioned about the	
kind of mailbox address of the, quote, unquote, the	
church?	
A. Right.	
Q. And that being the publication office.	
So tell me a little bit about this publication board	
or committee or who it is that is in charge of the	
publications. Like what is this entity?	
A. I don't want to take the steam out of	
Mark's talk tomorrow on MMM. MMM is the outreach of	
the church.	
Q. Okay.	
A. Of EPMC. The publication facility falls	
under the Mennonite Messianic Mission.	
Q. Okay.	
A. They were started as a publication board	
to help we have our own schools, so we make some of	
our own school books. We buy them from other	
publishers as well. Sunday school material, all kinds	
of textbooks, religious books, that type of thing. So	
we have a store that also sells them to the public and	

		27
1	to our own p	
2	Q.	Okay.
3	Α.	That is the publication office.
4	Q.	Okay. So the books or anything that's
5	either publi	shed within or sold within the store, I
6	guess anythi	ng that's kind of overseen by the
7	publication	board, do they also then answer to or
8	within un	derneath the umbrella of the leadership of
9	the EPMC kin	d of oversees it, and it has to be within
10	the guidelin	es of what the EPMC is for?
11	Α.	The Mennonite Messianic Mission oversees
12	them.	
13	Q.	Okay.
14	Α.	They oversee all the branches.
15	Q.	Okay.
16	Α.	But on the Mennonite Mission, the bishops
17	are also lik	e ex officio members.
18	Q.	Okay.
19	Α.	So they can sit there and say
20	Q.	And offer guidance?
21	Α.	And offer guidance.
22	Q.	Okay. So the Mission itself then is its
23	own actual c	orporate body then unlike the EPMC which
24	is, again, a	nebulas, for lack of a better term?
25	Α.	They are a corporate body.

1	Q. So they are a corporate entity, okay.
2	But they just get guidance from the bishops and the
3	religious leaders?
4	A. And the whole ministry.
5	MS. FRANCHI: Okay. That makes sense.
6	If we can take maybe five minutes. I just want to
7	look through everything, and we'll probably get you
8	out of here sooner rather than later. So let's take
9	five. I just want to stand up quick. Pour myself
LO	more water. Take a look at everything. We might come
L1	back, and I might have almost no questions, so.
L2	THE VIDEOGRAPHER: We are going off the
L3	record at 1:04 p.m.
L4	(Recess)
L5	THE VIDEOGRAPHER: We are back on the
L6	record. The time is 1:07 p.m.
L7	MS. FRANCHI: All right.
L8	
L9	BY MS. FRANCHI:
20	Q. All right. So before we took our brief
21	break, you were explaining just a little bit generally
22	about the Mission Board and its responsibilities
23	generally. Again, I know that there are other people
24	that I will be asking those specific questions of, so
25	I don't want to draw you into that too much because

	29
1	it's not your role.
2	But so are all of the board members of
3	the Mission all members of the EPMC in some sort?
4	A. That's correct.
5	Q. So did the overarching EPMC leaders have
6	any involvement in the creation and implementation of
7	Liberty Ridge to your knowledge?
8	A. Not to my knowledge.
9	Q. Okay. Do you you had mentioned
LO	hearing about Liberty Ridge briefly. But just to be
L1	clear, did you, yourself, have any participation in or
L 2	really have any understanding of Liberty Ridge when it
L3	was created or moving forward?
L4	A. I would have had a minor understanding of
L5	what they were trying to do. You ask about an overall
L6	EPMC involvement. Many of us felt there was a need,
L7	but that final need will be decided by the Mission
L8	Board who then called for a vote of the EPMC members.
L9	Q. Okay. So, okay. Did the EPMC members
20	offer any guidance or input to the board as they were
21	kind of creating this entity of Liberty Ridge?
22	A. Nothing official.
23	Q. Okay. Do you know and, again, it's
24	perfectly fine if you don't. I just need to ask the
25	question. Do you know if any of the EPMC I keep

	20
1	referring to them as leaders. I don't want to say
2	board because that kind of implies
3	A. There is no real board.
4	Q. Yeah, because it implies a corporation or
5	a real board, so I'm just going to say leaders. To
6	your knowledge, did any of the leaders of the EPMC go
7	to the Liberty Ridge property or have any involvement
8	with Liberty Ridge itself once it was once it
9	began began operating?
10	A. Anyone could visit Liberty Ridge.
11	MS. FRANCHI: Okay. All right. I think
12	those are all of the questions that I have unless you
13	have any questions.
14	MS. WYNKOOP: I do not.
15	MS. FRANCHI: Okay. I appreciate your
16	time. Thank you very much.
17	THE VIDEOGRAPHER: This marks the end of
18	the deposition of Dana Ressler. We are going off the
19	record at 1:09 p.m.
20	(The deposition was concluded at 1:09
21	p.m.)
22	
23	
24	
25	

1	COMMONWEALTH OF PENNSYLVANIA)) SS.	31					
2	COUNTY OF YORK)						
3	T Market I Illand a Daniekanad						
4	I, Tracy L. Lloyd, a Registered Professional Reporter and Notary Public in and for						
5	the Commonwealth of Pennsylvania and County of York, do hereby certify that the foregoing						
6	testimony was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:						
7							
8	DANA RESSLER						
9	T fourthern moutiful that and devices and						
10	I further certify that said witness was by me duly sworn to testify the whole and						
11	complete truth in said cause; that the testimony then given was reported by me stenographically, and						
12	subsequently transcribed under my direction and supervision; and that the foregoing is a full, true						
13	and correct transcript of my original shorthand notes.						
14	I further certify that I am not						
15	counsel for nor related to any of the parties to the foregoing cause, nor employed by them or their						
16	attorneys, and am not interested in the subject matter or outcome thereof.						
17	Dated at York, Pennsylvania, this 31st day of October, 2022.						
18	day of october, 2022.						
19	Jucy Jung						
20							
21	Tracy L. Lloyd, Notary Public Registered Professional Reporter						
22							
23	(The foregoing certification does not apply to any reproduction of the same by any means unless under						
24	the direct control and/or supervision of the certifying reporter.)						
25	My Commission expires: April 21, 2023						

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EXHIBIT K

18 USCS § 1589

Current through Public Law 117-262, approved December 21, 2022.

United States Code Service > TITLE 18. CRIMES AND CRIMINAL PROCEDURE (§§ 1 — 6005) > Part I. Crimes (Chs. 1 — 123) > CHAPTER 77. Peonage, slavery, and trafficking in persons (§§ 1581 — 1597)

§ 1589. Forced labor

- (a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—
 - (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
 - (2) by means of serious harm or threats of serious harm to that person or another person;
 - (3) by means of the abuse or threatened abuse of law or legal process; or
 - (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint, shall be punished as provided under subsection (d).
- **(b)** Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described in subsection (a), knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means, shall be punished as provided in subsection (d).
- (c) In this section:
 - (1) The term "abuse or threatened abuse of law or legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
 - (2) The term "serious harm" means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.
- (d) Whoever violates this section shall be fined under this title, imprisoned not more than 20 years, or both. If death results from a violation of this section, or if the violation includes kidnaping, an attempt to kidnap, aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title, imprisoned for any term of years or life, or both.

History

HISTORY:

Added Oct. 28, 2000, *P. L. 106-386*, Div A, § 112(a)(2), *114 Stat. 1486*; Dec. 23, 2008, *P. L. 110-457*, Title II, Subtitle C, § 222(b)(3), *122 Stat. 5068*.

Annotations

EXHIBIT L

As of: January 18, 2023 1:49 PM Z

United States v. Calimlim

United States Court of Appeals for the Seventh Circuit January 9, 2008, Argued; August 15, 2008, Decided Nos. 07-1112, 07-1113 & 07-1281

Reporter

538 F.3d 706 *; 2008 U.S. App. LEXIS 20058 **

UNITED STATES OF AMERICA, Plaintiff-Appellee/Cross-Appellant, v. ELNORA M. CALIMLIM and JEFFERSON N. CALIMLIM, Defendants-Appellants/Cross-Appellees.

Subsequent History: US Supreme Court certiorari denied by *Calimlim v. United States, 129 S. Ct. 935, 2009 U.S. LEXIS 552 (U.S., Jan. 12, 2009)*

Prior History: [**1] Appeals from the United States District Court for the Eastern District of Wisconsin. No. 04 CR 0248--Rudolph T. Randa, Chief Judge.

Core Terms

enhancement, vulnerable, forced labor, harboring, vague, convictions, alien, district court, financial gain, Sentencing, overbreadth, Guideline, innocent, serious harm, criminalized, warnings, threats, felony, deportation, immigration, coercion, bargain, counts, notice, involuntary servitude, scienter requirement, vulnerable-victim, instructions, housekeeper, procuring

Case Summary

Procedural Posture

Defendants appealed a judgment of the United States District Court for the Eastern District of Wisconsin convicting them of obtaining and conspiring to obtain forced labor, a violation of 18 U.S.C.S. §§ 371, 1589, and 1594, and harboring and conspiring to harbor an alien for private financial gain, a violation of 8 U.S.C.S. § 1324(a)(1), arising out of their treatment of their Philippine housekeeper. The Government appealed defendants' sentences.

Overview

On appeal, the court held that the forced labor statute,

18 U.S.C.S. § 1589, provided sufficient notice of what it criminalized and, thus, was not vague under the Fifth Amendment Due Process Clause. Even if defendants did not know for certain that they would be convicted, the language of the statute alerted them to what was prohibited. They knew that they were telling the housekeeper that if she did not do everything they asked, they would not send money back home for her. Defendants also knew that not sending money back home was, for the housekeeper, a "serious harm." They also warned the housekeeper about her precarious position under the immigration laws, conveniently omitting anything about their own vulnerability. The jury was instructed on scienter and found conduct that met the definition. Further, contrary to defendants' argument, the statute did not state that only direct threats were forbidden. Finally, the language of § 1589 covered nonviolent coercion, and that was what the indictment accused defendant of doing; there was nothing arbitrary in applying the statute that way. The court also rejected defendants' overbreadth challenge to § 1589 under the First Amendment.

Outcome

The court affirmed defendants' convictions but vacated their sentences and remanded for resentencing.

LexisNexis® Headnotes

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Governments > Legislation > Vagueness



Judicial

& Legislative

Restraints,

538 F.3d 706, *706; 2008 U.S. App. LEXIS 20058, **1

Overbreadth & Vagueness of Legislation

A vagueness challenge is best described by the evils it seeks to prevent: Unconstitutionally vague statutes pose two primary difficulties: (1) they fail to provide due notice so that ordinary people can understand what conduct is prohibited, and (2) they encourage arbitrary and discriminatory enforcement.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

Governments > Legislation > Vagueness

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > General Overview

HN2 Constitutional Law, Involuntary Servitude

The forced labor statute provides sufficient notice of what it criminalizes.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

<u>HN3</u>[♣] Constitutional Law, Involuntary Servitude

Under 18 U.S.C.S. § 1589, it is illegal knowingly to provide or obtain the labor or services of a person (1) by threats of serious harm to, or physical restraint against, that person or another person; (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or (3) by means of the abuse or threatened abuse of law or the legal process.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Governments > Legislation > Vagueness

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

HN4 Law, Involuntary Servitude

A vagueness challenge not premised on the *First Amendment* is evaluated as-applied, rather than facially. The action criminalized by 18 U.S.C.S. § 1589, knowingly providing or obtaining the labor or services of a person, is sufficiently removed from anything protected by the *First Amendment* that a court must evaluate it as-applied.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Acts & Mental States > Mens Rea > General Intent

Governments > Legislation > Vagueness

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Criminal Law & Procedure > Criminal Offenses > Miscellaneous Offenses > General Overview

HN5[♣] Constitutional Law, Involuntary Servitude

The presence of a scienter element to the offense makes the defendants' burden on a vagueness challenge to a statute very difficult to carry. When the government must prove intent and knowledge, these requirements do much to destroy any force in the argument that application of the statute would be so

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unfair that it must be held invalid. <u>18 U.S.C.S.</u> § <u>1589</u> contains an express scienter requirement. In addition, one of the three ways in which labor can be obtained criminally contains a second scienter requirement: by means of any scheme intended to cause the person to believe. <u>§ 1589(2)</u>. Obtaining the services of another person is not itself illegal; it is illegal only when accompanied by one of the three given circumstances, and the jury must find that the defendant knew that the circumstance existed.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Acts & Mental States > Mens Rea > General Intent

Governments > Legislation > Vagueness

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

HN6 Law, Involuntary Servitude

18 U.S.C.S. § 1589 does not specify that the "serious harm" be at the defendant's hand. It requires that the plan be intended to cause the victim to believe that such harm will befall her. § 1589(2). This subsection describes a more indirect form of threat than that covered by § 1589(1), which criminalizes direct threats of serious harm to the victim or another person. Taken as a whole, the statute provides ample notice that it prohibits intentionally creating the belief that serious harm is possible, either at the defendant's hands or those of others.

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Governments > Legislation > Vagueness

<u>HN7</u>[

Judicial & Legislative Restraints,

Overbreadth & Vagueness of Legislation

Speculation about possible vagueness in hypothetical situations not before the court will not support a facial attack on a statute when it is surely valid in the vast majority of its intended applications.

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Governments > Legislation > Vagueness

HN8 Judicial & Legislative Restraints, Overbreadth & Vagueness of Legislation

A statute may be unconstitutionally vague when an ambiguity allows for arbitrary enforcement of the law beyond what Congress intended. A statute is vague in this sense when there is a lack of clarity that would give law enforcement officials discretion to pull within the statute activities not within Congress' intent.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

HN9 Constitutional Law, Involuntary Servitude

After the United States Supreme Court ruled that a similar statute involving involuntary servitude, <u>18</u> <u>U.S.C.S. § 1584</u>, prohibited only servitude procured by threats of physical harm, Congress enacted <u>18 U.S.C.S.</u> § <u>1589</u>. The language of § <u>1589</u> covers nonviolent coercion.

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Governments > Legislation > Overbreadth

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

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<u>HN10</u>[♣] Judicial & Legislative Restraints, Overbreadth & Vagueness of Legislation

Overbreadth is a doctrine designed to protect free speech.

Constitutional Law > ... > Fundamental Freedoms > Judicial & Legislative Restraints > Overbreadth & Vagueness of Legislation

Governments > Legislation > Overbreadth

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

<u>HN11</u>[♣] Judicial & Legislative Restraints, Overbreadth & Vagueness of Legislation

The overbreadth doctrine permits the facial invalidation of laws that inhibit the exercise of *First Amendment* rights if the impermissible applications of the law are substantial when judged in relation to the statute's plainly legitimate sweep.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

Criminal Law & Procedure > ... > Acts & Mental States > Mens Rea > General Intent

<u>HN12</u> **Law, Involuntary Servitude**

18 U.S.C.S. § 1589 does not criminalize any speech; it bans behavior that may involve speech. This blunts any overbreadth attack. Because of the scienter requirement, any speech involved must be a threat or else intended to achieve an end prohibited by law.

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Constitutional Law > ... > Fundamental Freedoms > Freedom of Speech > Scope

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

Criminal Law & Procedure > ... > Acts & Mental States > Mens Rea > General Intent

<u>HN13</u>[基] Constitutional Law, Involuntary Servitude

To the extent that <u>18 U.S.C.S.</u> § <u>1589</u> raises <u>First Amendment</u> concerns, the scienter requirement limits the prohibited speech to unprotected speech.

Criminal Law & Procedure > ... > Miscellaneous Offenses > Harboring & Transporting Illegal Aliens > Elements

Immigration Law > ... > Criminal Offenses > Illegal Entry > Concealing, Harboring & Shielding

<u>HN14</u> **★** Harboring & Transporting Illegal Aliens, Elements

See 8 U.S.C.S. § 1324(a)(1).

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > General Overview

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > General Overview

HN15 L Crimes Against Persons, Coercion & Harassment

A statement is a threat if a reasonable person would believe that the intended audience would receive it as a threat, regardless of whether the statement was intended to be carried out.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > Criminal

Constitutional Law > Involuntary Servitude

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Offenses > Miscellaneous Offenses > General Overview

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > General Overview

HN16 Law, Involuntary Servitude

The immigration laws do not aim to help employers retain secret employees by threats of deportation, and so their "warnings" about the consequences are directed to an end different from those envisioned by the law and are thus an abuse of the legal process. The warnings therefore fit within the scope of 18 U.S.C.S. § 1589(3).

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Crimes Against Persons > False Imprisonment > Elements

Criminal Law & Procedure > Criminal Offenses > Miscellaneous Offenses > General Overview

HN17 ≥ Constitutional Law, Involuntary Servitude

<u>18 U.S.C.S.</u> § <u>1589</u> is not written in terms limited to overt physical coercion, and when Congress amended the statute, it expanded the definition of involuntary servitude to include nonphysical forms of coercion.

Criminal Law & Procedure > Trials > Jury Instructions > General Overview

HN18 Trials, Jury Instructions

The court of appeals will not quibble with a district court's wording in a jury instruction as long as it fairly summarized the law for the jury.

Criminal Law & Procedure > ... > Miscellaneous Offenses > Harboring & Transporting Illegal Aliens > Elements

Immigration Law > ... > Criminal Offenses > Illegal Entry > Concealing, Harboring & Shielding

Criminal Law & Procedure > ... > Miscellaneous

Offenses > Harboring & Transporting Illegal Aliens > Penalties

<u>HN19</u> ★ Harboring & Transporting Illegal Aliens, Elements

<u>8</u> <u>U.S.C.S.</u> § <u>1324(a)(1)</u> provides for stricter punishments if the harboring occurs for the purpose of commercial advantage or private financial gain. § <u>1324(a)(1)(B)(i)</u>.

Criminal Law & Procedure > ... > Standards of Review > Substantial Evidence > Sufficiency of Evidence

<u>HN20</u>[Substantial Evidence, Sufficiency of Evidence

A challenge to the sufficiency of the evidence for conviction is reviewed in the light most favorable to the government; the court of appeals will uphold a conviction if any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

<u>HN21</u> Sentencing Guidelines, Adjustments & Enhancements

<u>U.S. Sentencing Guidelines Manual § 2H4.1</u> covers peonage, involuntary servitude, and slave trade. It establishes a base offense level of 22, and identifies several special offense characteristics, including one for another felony: If any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense, increase to the greater of two plus the offense level as determined above.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

Immigration Law > ... > Criminal Offenses > Illegal Entry > Concealing, Harboring & Shielding

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Criminal Law & Procedure > ... > Miscellaneous Offenses > Harboring & Transporting Illegal Aliens > Penalties

<u>HN22</u>[Sentencing Guidelines, Adjustments & Enhancements

8 U.S.C.S. § 1324(a)(1), harboring an alien for private financial gain, has its own sentencing Guideline, <u>U.S. Sentencing Guidelines Manual § 2L1.1</u>. It is therefore an other felony offense other than an offense that is itself covered by <u>U.S. Sentencing Guidelines Manual § 2H4.1</u>. <u>U.S. Sentencing Guidelines Manual § 2H4.1(b)(4)</u>, cmt., application n. 2. A harboring conviction falls within the terms of § 2H4.1(b)(4) and should trig its application.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

<u>HN23</u>[Sentencing Guidelines, Adjustments & Enhancements

The bar on double counting comes into play only if the offense itself necessarily includes the same conduct as the sentencing enhancement.

Criminal Law & Procedure > ... > Miscellaneous Offenses > Harboring & Transporting Illegal Aliens > Penalties

Immigration Law > ... > Criminal Offenses > Illegal Entry > Concealing, Harboring & Shielding

<u>HN24</u>[♣] Harboring & Transporting Illegal Aliens, Penalties

There is nothing artificial about treating forced labor and harboring as two separate offenses. They are based on different conduct, and neither necessarily encompasses the other.

Constitutional Law > Involuntary Servitude

Criminal Law & Procedure > ... > Miscellaneous Offenses > Harboring & Transporting Illegal Aliens > Elements Immigration Law > ... > Criminal Offenses > Illegal Entry > Concealing, Harboring & Shielding

HN25 Law, Involuntary Servitude

Even today, long after the passage of the *Thirteenth Amendment*, it is possible to violate the law by forcing an American into servitude just as one can force an alien into servitude. In no sense does forced labor necessarily imply that the victim is an alien. Similarly, it is possible to harbor an alien for private financial gain without forcing that person to work; the gain might come from the use of valuable property that the alien has, or even from a ransom.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Vulnerable Victims

HN26 Adjustments & Enhancements, Vulnerable Victims

<u>U.S. Sentencing Guidelines Manual</u> § 3A1.1(b)(1) requires a two-level increase if the defendant knew or should have known that a victim of the offense was a vulnerable victim. The commentary accompanying this section defines a "vulnerable victim" as one who is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct. <u>U.S. Sentencing Guidelines Manual</u> § 3A1.1, cmt., application n. 2.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Vulnerable Victims

HN27 ★ Adjustments & Enhancements, Vulnerable Victims

<u>U.S. Sentencing Guidelines Manual § 2H4.1</u>, which is the Guideline for the forced labor offense, does not say anything about the vulnerability of the victim. The only adjustments it requires are for death or serious bodily injury, use of a dangerous weapon, a period greater than a year, and commission of another felony. The United States Court of Appeals for the Ninth Circuit has held that the vulnerable victim adjustment is not partand-parcel of the offense Guideline. The Seventh Circuit agrees.

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Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Vulnerable Victims

<u>HN28</u>[♣] Adjustments & Enhancements, Vulnerable Victims

The key concern behind the vulnerable victim enhancement as the desire to deter criminals from targeting certain groups by increasing the penalties for doing so.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Vulnerable Victims

<u>HN29</u>[Adjustments & Enhancements, Vulnerable Victims

where vulnerability is not already accounted for in the United States Sentencing Guidelines, the court will apply the vulnerable victim enhancement when the victim is a member of a group typically vulnerable to the particular manifestation of the general offense committed by the defendant, whether or not the victim is otherwise unusually vulnerable.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Use of Minor

<u>HN30</u>[♣] Adjustments & Enhancements, Use of Minor

<u>U.S. Sentencing Guidelines Manual § 3B1.4</u> requires a two-level enhancement for using a minor to commit a crime. "Use" includes directing, commanding, encouraging, intimidating, counseling, training, procuring, recruiting, or soliciting. <u>U.S. Sentencing Guidelines Manual § 3B1.4</u>, cmt., application n. 1.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > Use of Minor

<u>HN31</u>[♣] Adjustments & Enhancements, Use of Minor

Whether the minor understands what is going on is

irrelevant: The enhancement in <u>U.S. Sentencing</u> <u>Guidelines Manual § 3B1.4</u> focuses on whether the defendant used a minor in the commission of a crime, not whether the minor knew that he was being used to commit a crime.

Criminal Law &
Procedure > Sentencing > Sentencing
Guidelines > General Overview

Criminal Law &
Procedure > Sentencing > Appeals > Proportionality
& Reasonableness Review

HN32 | Sentencing, Sentencing Guidelines

When a judge does not properly calculate a guidelines sentence, the court of appeals' review for reasonableness is forestalled.

Criminal Law &
Procedure > Sentencing > Imposition of
Sentence > Factors

Criminal Law &
Procedure > Sentencing > Sentencing
Guidelines > General Overview

Criminal Law & Procedure > Sentencing > Ranges

HN33 Imposition of Sentence, Factors

Once the proper sentencing range has been determined, rather than thinking in terms of "departures" and "enhancements," a district court should simply decide whether to impose a sentence within the range or outside it, by reference to the factors set forth in 18 U.S.C.S. § 3553(a).

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Judges: Before WOOD, SYKES, and TINDER, Circuit

Judges.

Opinion by: WOOD

Opinion

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[*708] WOOD, Circuit Judge. At age 16, Irma Martinez began working for the Mendoza family in the Philippines, where it is common for wealthier families to have a live-in housekeeper to attend to the house and children. Her family was poor and depended on the salary she earned. At the urging of Dr. Jovito Mendoza (the father of defendant Elnora Calimlim), Martinez traveled to the United States when she was about 19 years old. [**2] She told consular officials that she needed a visa in order to accompany Dr. Mendoza, who was going to the United States for medical treatment, but she really intended to stay in the United States to work. Her visa permitted a two-year stay as long as she departed and re-entered the United States at least once every six months.

When Martinez arrived, Jefferson and Elnora Calimlim confiscated her passport and told her that she would have to reimburse the Mendozas for the cost of her plane ticket. The Calimlims told her she was in the United States illegally from the day after she arrived. Martinez was unable to communicate in English for the first five or six years of her stay.

Martinez worked for the Calimlims, both of whom are physicians, as a live-in housekeeper. Her daily routine usually began at 6:00 a.m. and ended around 10:00 p.m., seven days a week as well as during most vacations. Her duties initially included caring for the Calimlim household and children; eventually they expanded to include the family cars, investment properties, and medical offices. After ten years, the family moved to a more luxurious house, 8,600 [*709] square feet in area and equipped with a private tennis court. [**3] Martinez provided their only household help.

While she worked for the Calimlims, Martinez was greatly restricted in what she could do. She never

walked out the front door of the first house, and only answered the door in the second house once--on Halloween, wearing a mask. She was told not to play outside with the children or leave her room in the basement during social functions, even to go to the bathroom. She was permitted to walk to church (one selected by Elnora), but only via a back path that was well away from possible observation. Elnora did not allow her to go to the same church too many times in a row. When she was driven someplace she had to ride in the back seat with her head down so that nobody could see her. The "house rules" included a phone code that enabled Martinez to answer the phone when the children called, but not when outsiders did. The children were told not to discuss Martinez with anyone outside the family. Martinez was not permitted to seek medical care outside of the house, even for special needs such as dentistry.

The Calimlims allowed Martinez to speak with her family four or five times over the 19 years she was with them, and even then she was surrounded [**4] by the Calimlim family while speaking on the phone. Martinez initially had a savings account into which her earnings were deposited, but Elnora closed it one day after Martinez's visa expired. Martinez authorized Elnora to send money to Martinez's family in the Philippines through Elnora's parents' account, but over the entire 19-year period, the total that the Calimlims sent was only 654,412 pesos, or about \$ 19,000. Martinez's "earnings" were nothing but a book entry in the Calimlims' accounts. Martinez was allowed to shop for personal items, but she had to leave the cart in the store (so that Elnora Calimlim could pay) and go wait in the car; she would later "reimburse" the Calimlims for the cost through withheld "wages." Martinez was told repeatedly by the adult Calimlims and their children that if anyone discovered her she could be arrested, imprisoned, and deported, and she would not be able to send any more money back to her family. Fear of that consequence kept her from breaking any of the rules or appearing outside the house.

On September 29, 2004, federal agents, acting on an anonymous tip, executed a search warrant and found a trembling Martinez huddled in the closet of her **[**5]** bedroom. A federal grand jury returned a third superseding indictment on December 6, 2005, charging the Calimlims with obtaining and conspiring to obtain forced labor (Counts 1 and 2), in violation of <u>18 U.S.C.</u> §§ 371, <u>1589</u>, and <u>1594</u>, and harboring and conspiring to harbor an alien for private financial gain (Counts 3 and 4), in violation of <u>8 U.S.C.</u> § 1324(a)(1). A jury

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convicted them of all four counts on May 26, 2006. On November 16, 2006, the district court sentenced the Calimlims to 48 months' imprisonment on each count, to run concurrently. Bond was denied pending appeal.

The Calimlims appeal their convictions, and the Government has cross-appealed from the district court's refusal to apply several enhancements in its calculation of the advisory Sentencing Guideline range. We find no error in the convictions, but we agree with the Government that resentencing is required, and so we reverse and remand for that purpose.

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The Calimlims challenge their convictions on several grounds: that the forced labor statute is vague and overbroad, that [*710] the jury instructions on the forced labor counts failed to exclude the possibility of a conviction for innocent actions, and that there was insufficient [**6] evidence of financial gain on the harboring counts.

A. Vagueness and Overbreadth

The Calimlims raise two constitutional challenges to the forced labor statute, <u>18 U.S.C. § 1589</u>. First, they argue that the statute is so vague that it fails to provide notice of what is criminalized, and second, that it is overbroad enough to punish innocent activity. They do not specify which provision of the Constitution supports their position, but the first argument apparently alludes to the <u>Due Process Clause of the Fifth Amendment</u>, and the overbreadth argument sounds like a <u>First Amendment</u> free speech challenge.

HN1[1] A vagueness challenge is best described by the evils it seeks to prevent: "Unconstitutionally vague statutes pose two primary difficulties: (1) they fail to provide due notice so that 'ordinary people can understand what conduct is prohibited,' and (2) they 'encourage arbitrary and discriminatory enforcement." United States v. Cherry, 938 F.2d 748, 753 (7th Cir. 1991) (quoting Kolender v. Lawson, 461 U.S. 352, 357, 103 S. Ct. 1855, 75 L. Ed. 2d 903 (1983). The Calimlims argue that the statute failed to put them on notice that warning Martinez that she was violating the law by being in the country illegally could be construed [**7] as violating the forced labor statute. This point overlaps to some degree with their overbreadth argument. They also assert that this prosecution took the statute beyond the boundaries Congress intended. Neither argument has merit.

We find that <u>HN2[1]</u> the forced labor statute provides sufficient notice of what it criminalizes. <u>HN3[1]</u> Under 18 U.S.C. § 1589, it is illegal

knowingly [to] provide [] or obtain [] the labor or services of a person--

- (1) by threats of serious harm to, or physical restraint against, that person or another person;
- (2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) by means of the abuse or threatened abuse of law or the legal process

The Government did not allege that the Calimlims made direct threats against Martinez within the scope of § 1589(1); the charges rest on subparts (2) and (3). They kept Martinez under physical restraint and caused her to believe that she might be deported and her family seriously harmed because she would no longer be able to send money. They also implicitly threatened [**8] her with deportation proceedings. Looking at those charges, the Calimlims argue that the phrases "serious harm" and "threatened abuse of the law or the legal process" are too vague to support criminal liability. They argue that while they did notify Martinez that a threat existed from other quarters, they did not threaten Martinez that they would take action themselves.

HN4 A vagueness challenge not premised on the First Amendment is evaluated as-applied, rather than facially. Chapman v. United States, 500 U.S. 453, 467, 111 S. Ct. 1919, 114 L. Ed. 2d 524 (1991). Here, the action criminalized by § 1589--"knowingly provid[ing] or obtain[ing] the labor or services of a person"--is sufficiently removed from anything protected by the First Amendment that we must evaluate it as-applied. The question is thus whether [*711] the Calimlims were on notice that their conduct was illegal.

The presence of a *scienter* element to the offense makes the Calimlims' burden very difficult to carry. See <u>Screws v. United States</u>, 325 U.S. 91, 65 S. Ct. 1031, 89 L. Ed. 1495 (1945) (rejecting vagueness challenge to what is now 18 U.S.C. § 242 because it had a scienter requirement). "When the government must prove intent and knowledge, 'these requirements . . . do [] much to destroy any [**9] force in the argument that application of the [statute] would be so unfair that it must be held invalid[.]" <u>Cherry</u>, 938 F.2d at 754 (quoting Jackson, 935 F.2d 832 at 839) (other internal quotations omitted). <u>Section 1589</u> contains an express scienter

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requirement. In addition, one of the three ways in which labor can be obtained criminally contains a second scienter requirement: "by means of any scheme . . . intended to cause the person to believe. . . ." 18 U.S.C. § 1589(2). Obtaining the services of another person is not itself illegal; it is illegal only when accompanied by one of the three given circumstances, and the jury must find that the defendant knew that the circumstance existed.

Even if the Calimlims did not know for certain that they would be convicted, the language of the statute alerted them to what was prohibited. They knew that they were telling Martinez that if she did not do everything they asked, they would not send money back home for her. The Calimlims also knew that not sending money back home was, for Martinez, a "serious harm." The Calimlims also warned Martinez about her precarious position under the immigration laws, conveniently omitting anything about their [**10] own vulnerability. The jury was instructed on *scienter* and found conduct that met the definition.

The Calimlims further assert that a reader of the statute would think that only direct threats are forbidden. That is not, however, what it says. <code>HN6[]</code> The statute does not specify that the "serious harm" be at the defendant's hand. It requires that the plan be "intended to cause the [victim] to believe that" that harm will befall her. <code>18</code> <code>U.S.C. § 1589(2)</code>. This subsection describes a more indirect form of threat than that covered by § <code>1589(1)</code>, which criminalizes direct "threats of serious harm to . . . [the victim] or another person." Taken as a whole, the statute provides ample notice that it prohibits intentionally creating the belief that serious harm is possible, either at the defendant's hands or those of others.

We have found only one unpublished decision from a district court that has directly addressed this issue, and that court took the same approach that we have. See *United States v. Garcia, 2003 U.S. Dist. Lexis 22088* (W.D.N.Y., Dec. 2, 2003) (unpublished). Our conclusion is, more importantly, consistent with the one that the Supreme Court reached in *Screws, supra*, and *Hill v. Colorado, 530 U.S. 703, 732-33, 120 S. Ct. 2480, 147 L. Ed. 2d 597 (2000), [**11] which rejected vagueness challenges to statutes requiring <i>scienter*. The *Hill* Court reasoned that *HNT* "speculation about possible vagueness in hypothetical situations not before the Court will not support a facial attack on a statute when it is surely valid in the vast majority of its intended applications[.]" 530 U.S. at 733 (quotation omitted).

HN8 A statute may also be unconstitutionally vague when an ambiguity allows for arbitrary enforcement of the law beyond what Congress intended. A statute is vague in this sense when "[t]here is [a] lack of clarity . . . that would give law enforcement officials discretion to pull within the statute activities not within Congress' intent." United States v. Collins, 272 F.3d 984, 989 (7th Cir. 2001). [*712] With reference to § 1589, HN9[1] after the Supreme Court ruled that a similar statute involving involuntary servitude, 18 U.S.C. § 1584, prohibited only servitude procured by threats of physical harm, see United States v. Kozminski, 487 U.S. 931, 952, 108 S. Ct. 2751, 101 L. Ed. 2d 788 (1988), Congress enacted § 1589, see United States v. Bradley, 390 F.3d 145, 156-57 (1st Cir. 2004); see also 22 U.S.C. § 7101(b)(13) (rejecting the definition of coercion applied by Kozminski). The language of § 1589 [**12] covers nonviolent coercion, and that is what the indictment accused the Calimlims of doing; there was nothing arbitrary in applying the statute that way.

We turn, then, to the Calimlims' overbreadth argument. It is tempting to reject this for the simple reason that § 1589 penalizes conduct, whereas HN10 \(\frac{1}{4} \) overbreadth is a doctrine designed to protect free speech. See Virginia v. Hicks, 539 U.S. 113, 118, 123 S. Ct. 2191, 156 L. Ed. 2d 148 (2003). The Calimlims argue that they are focusing, however, on speech associated with the forbidden conduct. They speculate that, in the wake of their convictions, innocent employers who merely warn their workers about the consequences of illegal immigration or a potential loss of health insurance coverage could get caught up by this law. HN11 [1] overbreadth doctrine permits the facial invalidation of laws that inhibit the exercise of First Amendment rights if the impermissible applications of the law are substantial when 'judged in relation to the statute's plainly legitimate sweep." City of Chicago v. Morales, 527 U.S. 41, 52, 119 S. Ct. 1849, 144 L. Ed. 2d 67 (1999) (quoting Broadrick v. Oklahoma, 413 U.S. 601, 612-15, 93 S. Ct. 2908, 37 L. Ed. 2d 830 (1973)).

There are many problems with this argument. As we said, <code>HN12[] § 1589</code> does not criminalize any speech; <code>[**13]</code> it bans behavior that may involve speech. This blunts any overbreadth attack. See <code>id. at 52-53</code> (noting that an unconstitutionally vague statute criminalizing "loitering," which may or may not involve speech and association, was not subject to an overbreadth attack). Because of the <code>scienter</code> requirement, any speech involved must be a threat or else intended to achieve an end prohibited by law.

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HN13 To the extent that § 1589 raises First Amendment concerns, the scienter requirement limits the prohibited speech to unprotected speech. The Calimlims imagine many hypothetical innocent parties who might get swept up by the law. For example, they pose the case of a small employer who tells her employees that they must start paying a portion of their health insurance premiums or face the loss of their health insurance benefits (surely a common situation in these times). This example does not advance their case for overbreadth, however, because this employer would not run afoul of the statute. This plan could not be a "scheme . . . intended to cause the [employee] to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm . . . , " 18 U.S.C. § 1589(2), [**14] because the employee could quit and change jobs. The employer is not procuring labor by means of this statement, only lower wages or a renegotiation of the employment contract. There is no reliance on fear consistent with an intended scheme. Irma Martinez did not have an exit option: because the threats in her case involved her immigration status, she could not freely work for another employer in order to escape the threatened harm. Indeed, had Martinez escaped, she could have informed the authorities about the Calimlims' own violation of the law forbidding employment of an undocumented worker. See HN14 [] 8 U.S.C. § 1324a(I) ("It is unlawful for a person . . . (A) to hire . . . for [*713] employment in the United States an alien knowing the alien is an unauthorized alien . . . with respect to such employment. . . . "). The Calimlims' problem is the lack of connection between their case and that of the innocent employer they posit.

Taking their vagueness and overbreadth challenges together, the Calimlims are arguing that nothing they said or did to Martinez amounted to a threat. To the contrary, they urge, they meant her no harm and were only telling her these things in her best interest. Perhaps another [**15] jury might have accepted this story, but the one that heard their case did not. The key to distinguishing this innocent explanation from the facts of conviction, and the reason why the record contains evidence supporting the jury's verdict, lies in part in what they did not tell her: that they knew how to set in motion the process that might have resulted in a legitimate green card (specifically through an I-140 form and a Department of Labor certification program). HN15 1 statement is a threat if a reasonable person would believe that the intended audience would receive it as a threat, regardless of whether the statement was intended to be carried out. See, e.g., United States v.

Fuller, 387 F.3d 643, 646 (7th Cir. 2004) (threat to life of President); United States v. Hart, 226 F.3d 602, 607 (7th Cir. 2000) (threat of death with unknown object purported to be bomb during bank robbery).

The evidence showed that the Calimlims intentionally manipulated the situation so that Martinez would feel compelled to remain. They kept her passport, never admitted that they too were violating the law, and never offered to try to regularize her presence in the United States. Their vague warnings that someone [**16] might report Martinez and their false statements that they were the only ones who lawfully could employ her could reasonably be viewed as a scheme to make her believe that she or her family would be harmed if she tried to leave. That is all the jury needed to convict. (Notably, the Calimlims did not challenge the sufficiency of evidence supporting the jury's findings of intent.)

Almost as an aside, the Calimlims also argue that the "abuse of law" here is not an "abuse" at all: Martinez was throughout the relevant time in the United States illegally and was thus subject to deportation. (The Calimlims once again conveniently overlook the fact that they themselves were also breaking the law by employing Martinez. See 8 U.S.C. § 1324a(I).) But HN16 the immigration laws do not aim to help employers retain secret employees by threats of deportation, and so their "warnings" about the consequences were directed to an end different from those envisioned by the law and were thus an abuse of the legal process. See Restatement (Second) of Torts § 682. The warnings therefore fit within the scope of § 1589(3). In summary, as applied to the Calimlims' case § 1589 is neither vague nor overbroad.

B. Jury Instructions [**17]

The Calimlims also challenge the instructions given to the jury on the forced labor count. They argue that the district court's instructions permitted them to be convicted for innocent warnings. This challenge depends, however, on the overbreadth argument that we have rejected. The Calimlims do not argue that the district court misstated the law--indeed, they concede that the court "fairly and accurately" summarized the statute. At best, they seem to be challenging the district court's use of its discretion in giving the instruction at all. The only reason they give why this might be an abuse, however, is that the statute permits conviction for [*714] innocent warnings--in short, it is overbroad.

In fact, the district court advised the jury that "[w]arnings of legitimate but adverse consequences or credible

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threats of deportation, standing alone, are not sufficient to violate the forced labor statute." The Calimlims complain that the court failed to define "legitimate but adverse consequences," but, in the context of the whole discussion, the meaning of that phrase is plain. This instruction effectively alerted the jury to the *scienter* that the Government had to prove beyond a [**18] reasonable doubt.

To the extent the Calimlims raise a challenge to the sufficiency of the evidence supporting the court's instruction to the jury, they argue that no reasonable jury would have convicted the Calimlims on the charges because there was no evidence of threats of violence or physical coercion. No objection was raised on this point at trial, so we review for plain error only.

We have already reviewed why this argument has no merit. HN17 Section 1589 is not written in terms limited to overt physical coercion, and we know that when Congress amended the statute it expanded the definition of involuntary servitude to include nonphysical forms of coercion. See Bradley, 390 F.3d at 156 (stating that Congress believed Kozminski "mistakenly narrowed the definition of involuntary servitude by limiting it to physical coercion"). There was no error, plain or otherwise, in a jury instruction based on this understanding of the law. The jury instructions properly recited the law, alerted the jury to the potential complications involving scienter, and were based on sufficient evidence. HN18 We will not quibble with a district court's wording as long as it fairly summarized the law for the jury. See [**19] United States v. Bailey, 227 F.3d 792, 799 (7th Cir. 2000).

C. Insufficient Evidence for Harboring Conviction

We next turn to the Calimlims' challenge to the evidence supporting their conviction for harboring an alien for private financial gain under HN19 B U.S.C. § 1324(a)(1). The statute provides for stricter punishments if the harboring occurs "for the purpose of commercial advantage or private financial gain." B U.S.C. § 1324(a)(1)(B)(i). HN20 HN20 T A challenge to the sufficiency of the evidence for conviction is reviewed "in the light most favorable to the government," United States v. Albarran, 233 F.3d 972, 975 (7th Cir. 2000); we uphold a conviction if "any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt," Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979).

The Calimlims argue that Congress intended to punish smugglers and coyotes when it doubled the maximum

penalty for harboring aliens for private financial gain. They portray themselves as innocent employers who simply bargained for mutual advantage. They struck a fair deal with Martinez for the value of her labor, they claim; they even go so far as to say that she enjoyed a fine lifestyle while [**20] she lived with them. Perhaps, they concede, they did take some advantage of the fact that she was present in the country illegally, but they blame the immigration system, not themselves, for that inequity. This was a fair deal, they conclude, from which they reaped no net financial gain.

This argument makes no sense. The Calimlims must have enjoyed some profit, at least on the margin, or else they would not have gone to the trouble of having a livein housekeeper whom they kept hidden, often through extraordinary measures, from all outsiders. They argue that the value of her labor was offset by 1) the price of her wages, room, and board, and [*715] 2) the risk of harboring her, and that the values all balance out. Even accepting this implausible argument and granting that the Calimlims might not have any reason to spend one more dollar on Martinez, they would still have a motive to spend some dollars on her: her labor came at a significantly lower price than a comparable American housekeeper. This is enough of a pecuniary motive by itself to prove financial gain, as we observed in United States v. Fujii, 301 F.3d 535, 539-40 (7th Cir. 2002).

In effect, by adding the risk of harboring Martinez [**21] into the equation the Calimlims are trying to pay in an illegal currency. The whole point of criminalizing the act of harboring for financial gain and punishing it more strictly is to remove the financial incentive for doing so. If the risk of harboring Martinez is removed from the equation, the transaction becomes very imbalanced: the value of Martinez's labor, priced at a fair market value, greatly outweighs the wages, room, and board the Calimlims furnished for her. The law cannot take cognizance of a portion of a transaction that it forbids.

Finally, the Calimlims' argument ignores the circumstances surrounding the so-called bargain. They assert that the bargain was fair and any advantage they enjoyed was attributable to Martinez's illegal status and the legal hobbles it placed on her. What they ignore is that they procured her illegal presence by manipulating her travel with Jovito Mendoza, confiscating her passport, and never attempting to rectify her status. The Government even showed that the Calimlims possessed the very forms that would have permitted her to apply for legal status, but they never filed the forms or even

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told Martinez about them. The circumstances surrounding [**22] the imbalance in bargaining power were not inevitable; they were constructs of the Calimlims' own making that brought about a slanted and inequitable bargain.

This court cannot stand back and dignify this as a fair deal that resulted in no financial gain for the Calimlims. An above-board arrangement with a housekeeper whose immigration status was not in question would have cost the Calimlims a great deal more money. (Indeed, they could not have required one such person to work all of the hours that Martinez did, and so a fair comparison to the market would probably require looking at two or more substitutes.) By procuring Martinez's vulnerable status, driving a hard bargain, and paying with an illegal currency, they received a manifest benefit at a drastically reduced price. There was overwhelming evidence of financial gain, and an attempt to characterize it as something different seems cynical at best and outrageous at worst--and illegal in either case.

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Although that disposes of the Calimlims' appeal, there is more to this case. At the sentencing phase, the Government argued that the Calimlims' offense level for purposes of the Sentencing Guidelines should be increased under three [**23] separate sections: commitment of another felony during the course of committing the crime of forced labor, <u>U.S.S.G.</u> § <u>2H4.1(b)(4)</u>; vulnerable victim, <u>U.S.S.G.</u> § <u>3A1.1(b)(1)</u>; and use of a minor to commit a crime, <u>U.S.S.G.</u> § <u>3B1.4</u>. The district court rejected all three, and the Government has cross-appealed on the ground that this was error and that the overall sentences of 48 months each were unreasonable.

A. "Any Other Felony" Enhancement

The Guideline that applies to forced labor convictions is <u>HN21</u>[1] <u>U.S.S.G. § 2H4.1</u>, which covers "peonage, involuntary servitude, and slave trade." It establishes a base [*716] offense level of 22, and identifies several "special offense characteristics," including one for another felony:

- (b)(4) If any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense, increase to the greater of:
 - (A) 2 plus the offense level as determined above,

See also <u>U.S.S.G.</u> § <u>2H4.1(b)(4)</u>, <u>appl. n. 2</u>. The Calimlims and the district court both took the position that all of their convictions were covered by § <u>2H4.1</u> and thus that there was no "other" felony offense that would support the enhancement.

This argument [**24] overlooks entirely the actual offenses for which the Calimlims were convicted: violations of § 1589 (forced labor) and HN22[1] § 1324(a)(1) (harboring an alien for private financial gain). The latter offense has its own Sentencing Guideline, U.S.S.G. § 2L1.1. It is therefore "an [] other felony offense . . . other than an offense that is itself covered by [§ 2H4.1]." U.S.S.G. § 2H4.1(b)(4), appl. n. 2. The harboring conviction falls within the terms of § 2H4.1(b)(4) and should have triggered its application. HN23[1] "The bar on double counting comes into play only if the offense itself necessarily includes the same conduct as the enhancement." United States v. Senn. 129 F.3d 886, 897 (7th Cir. 1997) (emphasis in original).

HN24 There is nothing artificial about treating forced labor and harboring as two separate offenses. They are based on different conduct, and neither necessarily encompasses the other. See, e.g., Bradley, 390 F.3d at 148-50 (listing charges of forced labor but not harboring of Jamaican nationals). To state the obvious, *HN25*[1] even today, long after the passage of the Thirteenth Amendment, it is possible to violate the law by forcing an American into servitude just as one can force an alien into [**25] servitude. In no sense does forced labor necessarily imply that the victim is an alien. Similarly, it is possible to harbor an alien for private financial gain without forcing that person to work; the gain might come from the use of valuable property that the alien has, or even from a ransom. The enhancement called for by § 2H4.1(b)(4) should have been applied here.

B. "Vulnerable Victim" Enhancement

HN26[U.S.S.G. § 3A1.1(b)(1) requires a two-level increase if the defendant "knew or should have known that a victim of the offense was a vulnerable victim." The commentary accompanying this section defines a "vulnerable victim" as one "who is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct." U.S.S.G. § 3A1.1, appl. n. 2. The question here is whether the vulnerability of the victim is to be measured against the general population or against the group comprised of the likely victims of this crime. If the former, Martinez is vulnerable, but if the latter (as the

538 F.3d 706, *716; 2008 U.S. App. LEXIS 20058, **25

district court thought), then she is no worse off than any other victim of these crimes. In the latter case, the vulnerability of the victim would already [**26] have been built into the offense Guideline, and it would be double-counting to apply the enhancement.

HN27 Section 2H4.1, which as we have just noted is the Guideline for the forced labor offense, does not say anything about the vulnerability of the victim. The only adjustments it requires are for death or serious bodily injury, use of a dangerous weapon, a period greater than a year, and commission of another felony. The Ninth Circuit has held that the vulnerable victim adjustment is not part-and-parcel of the offense Guideline. United States v. Veerapol, 312 F.3d 1128, 1132-33 (9th Cir. 2002). [*717] We agree with our colleagues and find the Calimlims' argument to the contrary unpersuasive. The Calimlims assert, in essence, that any victim of forced labor is by definition vulnerable, and so a vulnerable-victim enhancement would be redundant. This is not the case: with enough muscle, it would be possible to coerce a perfectly ablebodied, English-speaking, independent American citizen into forced labor. The district court erred by failing to recognize that there are more ways to commit the forced labor crime than the one the Calimlims chose.

The Calimlims also appeal to the Ninth Circuit's decision [**27] in *United States v. Castaneda, 239 F.3d 978 (9th Cir. 2001)*, which held that only certain victims of a Mann Act violation would qualify as unusually vulnerable before the enhancement provided by *U.S.S.G.* § 3A1.1(b)(1) would be justified. The Calimlims argue that the same logic should apply to the forced labor statute: because all victims of that crime are vulnerable to a certain degree (or else no one could force them into servitude) only the subset who are worse off than most would warrant the vulnerable-victim enhancement.

In our view, this misinterprets <u>Castaneda</u>. <u>Castaneda</u> differentiated between victims of the particular scheme (for example, an offer of a bogus cure for cancer) and victims of the general offense (for example, health-care fraud); it permitted application of the enhancement when the victim was vulnerable in a way typical of the special scheme. See <u>id. at 981 n.4</u>. For example, somebody who uses mail fraud to victimize the aged should be punished more than a person who victimizes younger (and presumably more capable) people: the law recognizes that preying on the elderly is more culpable than many other instances of mail fraud. Even though Martinez may not have been [**28] especially vulnerable among the population of illegal aliens, she

was among the most vulnerable of the broader group who are forced into labor. The Calimlims victimized her by targeting her special vulnerability.

In Veerapol, on facts very similar to those before us, the Ninth Circuit upheld the use of the vulnerable-victim enhancement. See 312 F.3d at 1133. The approach to the enhancement taken by other circuits is consistent with that in the Ninth. See generally, e.g., United States v. Zats, 298 F.3d 182 (3d Cir. 2002) (fraudulent debt collection scheme); United States v. McCall, 174 F.3d 47 (2d Cir. 1998) (embezzlement). We have described HN28 1 the key concern behind the vulnerable-victim enhancement as the desire to deter criminals from targeting certain groups by increasing the penalties for doing so. See, e.g., United States v. Newsom, 402 F.3d 780, 785 (7th Cir. 2005); United States v. Grimes, 173 F.3d 634, 637 (7th Cir. 1999); United States v. Lallemand, 989 F.2d 936, 940 (7th Cir. 1993). Lest there be any doubt about our position on the question raised by the Calimlims, we clarify today that HN29 1 where vulnerability is not already accounted for in the Guidelines, we will apply the vulnerable-victim [**29] enhancement when the victim is a member of a group typically vulnerable to the particular manifestation of the general offense committed by the defendant, whether or not the victim is otherwise unusually vulnerable. In this case, Martinez was a member of a group typically targeted by those desiring forced labor, but her group (illegal aliens) is only part of the broader set of possible victims. She was therefore a vulnerable victim for the purposes of <u>U.S.S.G.</u> § 3A1.1(b)(1). The district court erred when it denied this enhancement.

C. "Use of Minor Children" Enhancement

Finally, HN30 U.S.S.G. § 3B1.4 requires a two-level enhancement for using a minor [*718] to commit a crime. "Use" includes "directing, commanding, intimidating, counseling, training, encouraging, procuring, recruiting, or soliciting." U.S.S.G. § 3B1.4, appl. n. 1. The district court thought that the Calimlims' minor children were not active and knowing cooperators in the scheme, but were rather innocent dupes of their parents.

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court erred when it relied on the children's (lack of) knowledge as the reason not to apply this enhancement.

The Calimlims' discussion of United States v. Acosta, 474 F.3d 999 (7th Cir. 2007), is wide of the mark. In Acosta, this court vacated the application of the enhancement because the defendant did not personally use a minor in committing the crime, even though he was aware of the minor's participation. *Id. at 1003*. The emphasis there was on the fact that the defendant did not personally solicit, encourage, or otherwise facilitate the crime; someone else in the conspiracy did. The Acosta court affirmed the defendant's conspiracy conviction, but it refused to enhance the sentence based on use of the minor. Id. The Calimlims frame this as a holding that the defendant must affirmatively use the child in order to warrant the enhancement. They then leap to an equation of the term "affirmatively use" with a requirement that the child know what is going on. The one does not follow from the other. The district court erred in not applying the enhancement, [**31] based on the ample evidence in the record that the Calimlims used their children to help conceal Martinez and to keep her in bondage all those years.

D. Reasonableness of Sentences

At this point, we do not need to explore the reasonableness of the Calimlims' sentences because a remand for a proper Guidelines calculation is necessary in any event. See <u>United States v. Robinson, 435 F.3d 699, 701 (7th Cir. 2006)</u> (<u>HN32</u>] "When a judge does not properly calculate a guidelines sentence, our review for reasonableness is forestalled."). <u>HN33</u> Once the proper range has been determined, rather than thinking in terms of "departures" and "enhancements," the court should simply "decide whether to impose a sentence within the range or outside it, by reference to the factors set forth in <u>18 U.S.C. § 3553(a)</u>." *Id.*

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We AFFIRM the Calimlims' convictions, but VACATE their sentences and REMAND for resentencing in accordance with this opinion.

EXHIBIT M

As of: January 18, 2023 2:12 PM Z

United States v. Dann

United States Court of Appeals for the Ninth Circuit

May 9, 2011, Argued and Submitted, San Francisco, California; July 22, 2011, Filed

No. 10-10191

Reporter

652 F.3d 1160 *; 2011 U.S. App. LEXIS 15012 **

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. MABELLE DE LA ROSA DANN, Defendant-Appellant.

Prior History: [**1] Appeal from the United States District Court for the Northern District of California. D.C. No. 08-390-CW. Claudia Wilken, District Judge, Presiding.

<u>United States v. Dann, 2010 U.S. Dist. LEXIS 83294</u> (N.D. Cal., July 22, 2010)

Disposition: AFFIRMED IN PART, REVERSED IN PART.

Core Terms

forced labor, district court, enhancement, child support, accrued, visa, immigration, serious harm, Guidelines, sentencing, passport, argues, restitution order, harboring, servitude, felony, alien, financial gain, facilitated, documents, talk, custodial parent, belong, Trafficking, challenges, convicted, juror, slave, child support payment, minimum wage

Case Summary

Procedural Posture

Defendant was convicted of conspiracy to commit visa fraud and visa fraud (<u>18 U.S.C.S. §§ 371</u> and <u>1546(a)</u>), forced labor and attempted forced labor (<u>18 U.S.C.S. §§ 1589</u> and <u>1594</u>), document servitude (<u>18 U.S.C.S. §§ 1592</u>), and harboring an illegal alien for private financial gain (<u>8 U.S.C.S. §§ 1324(a)(1)(A)(iii)</u> and (<u>B)(i)</u>) in the United States District Court for the Northern District of California Defendant appealed.

Overview

Defendant arranged to bring an immigrant nanny into

the country to take care of her children. However, she treated the nanny like a slave, taking her visa from her and taking steps to ensure that the nanny would not leave. Defendant appealed her conviction and sentence as well as a restitution order requiring that accrued child support payments made while she was in prison be paid to the nanny. The appellate court affirmed the convictions on all counts as supported by sufficient evidence. With respect to sentencing, the court declined to reach the merits of the first sentencing enhancement for visa fraud because it did not affect the guidelines offense level, affirmed the second enhancement for holding the nanny in forced labor for over one year, and affirmed the third enhancement for committing a felony in connection with forced labor. However, the court reversed the restitution order because any money that defendant received for child support did not belong to her but rather to her minor children and it could not be assigned to the nanny.

Outcome

The conviction and sentence were affirmed except for the restitution order, which was reversed.

LexisNexis® Headnotes

Immigration Law > Admission of Immigrants & Nonimmigrants > Visa Eligibility & Issuance > Issuance of Visas

<u>HN1</u>[♣] Visa Eligibility & Issuance, Issuance of Visas

For a T-Visa to be issued pursuant to <u>8 U.S.C.S.</u> § <u>1101(a)(15)(T)(i)(l)</u>, agents or prosecutors have to submit a letter to Immigration Services certifying that the visa applicant has been the victim of a severe form of

trafficking in persons, and the visa applicant must also cooperate in the prosecution of the trafficker.

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > General Overview

Criminal Law & Procedure > Trials > Motions for Acquittal

HN2[standards of Review, De Novo Review

An appellate court reviews the district court's denial of a motion for acquittal de novo. The appellate court asks whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

Criminal Law & Procedure > Trials > Motions for Acquittal

HN3 Trials, Motions for Acquittal

The analysis of a motion for judgment of acquittal requires two steps: First, the court reviews the evidence presented at trial in the light most favorable to the prosecution; then, the court determines whether the evidence, so construed, would allow any rational trier of fact to find the defendant guilty of the crime beyond a reasonable doubt. This means that a court of appeals may not usurp the role of the finder of fact by considering how it would have resolved the conflicts, made the inferences, or considered the evidence at trial. Rather, when faced with a record of historical facts that supports conflicting inferences a reviewing court must presume — even if it does not affirmatively appear in the record — that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution. Nevertheless, a defendant will prevail if, once all of the evidence has been construed in favor of the government, the evidence is still so supportive of innocence that no rational juror could conclude that the government proved its case beyond a reasonable doubt.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General

Overview

HN4[♣] Coercion & Harassment, Elements

See 18 U.S.C.S. § 1589(a).

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

HN5 L Coercion & Harassment, Elements

Legislative history suggests that Congress passed the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464, to correct what they viewed as the U.S. Supreme Court's mistaken holding in United States v. Kozminski. In 18 U.S.C.S. § 1589, Congress intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. Victims of Trafficking and Violence Protection Act of 2000 § 102(b)(13). Congress concluded that the means used by modern day traffickers are increasingly subtle. And therefore § 1589 defines harm broadly as any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm. § 1589(c)(2). In other words, someone is guilty of forced labor if he intends to cause a person in his employ to believe that if she does not continue to work, she will suffer the type of serious harm — physical or nonphysical, including psychological, financial. reputation harm — that would compel someone in her circumstances to continue working to avoid that harm.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

HN6[♣] Coercion & Harassment, Elements

To be sure, not all bad employer-employee relationships or even bad employer-immigrant nanny relationships will constitute forced labor. First, the threat of harm must be serious. Congress intended to address serious

trafficking, or cases where traffickers threaten harm to third persons, restrain their victims without physical violence or injury, or threaten dire consequences by means other than overt violence. According to the statute, the threat, considered from the vantage point of a reasonable person in the place of the victim, must be sufficiently serious to compel that person to remain. $\underline{18}$ $\underline{U.S.C.S. \ \$1589(c)(2)}$.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

HN7 Coercion & Harassment, Elements

The scope of 18 U.S.C.S. § 1589 is narrowed by the requirement of scienter. The jury must find that the employer intended to cause the victim to believe that she would suffer serious harm — from the vantage point of the victim — if she did not continue to work. While the serious harm need not be effectuated at the defendant's hand, the statute requires that the plan be intended to cause the victim to believe that that harm will befall her. The linchpin of the serious harm analysis under § 1589 is not just that serious harm was threatened but that the employer intended the victim to believe that such harm would befall her.

Criminal Law & Procedure > Appeals > Standards of Review > General Overview

HN8[♣] Appeals, Standards of Review

The United States Court of Appeals for the Ninth Circuit has never held that the right to a jury trial is satisfied when an appellate court retries a case on appeal under different instructions and on a different theory than was ever presented to the jury. Appellate courts are not permitted to affirm convictions on any theory they please simply because the facts necessary to support the theory were presented to the jury.

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > Sufficiency of Evidence

HN9 ≥ De Novo Review, Sufficiency of Evidence

At the appellate stage in the litigation, the appellate court is to ask whether the evidence produced at trial

was sufficient for any reasonable juror to convict according to the instructions that he was given.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

HN10 L Coercion & Harassment, Elements

On a charge of a 18 U.S.C.S. § 1589 violation, while the court considers each harm separately below, the appellate court is to ask whether, from the vantage point of an immigrant in the victim's position, these harms — taken together — were sufficiently serious so as to compel her to remain in the defendant's employ.

Criminal Law & Procedure > Appeals > Standards of Review > General Overview

<u>HN11</u>[基] Appeals, Standards of Review

On appeal of a guilty verdict, the appellate court is to draw every inference in favor of the verdict.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

<u>HN12</u> **L** Coercion & Harassment, Elements

On a charge of a <u>18 U.S.C.S.</u> § <u>1589</u> violation, a victim has fewer means of escape where the threats in her case involve immigration. An immigrant victim does not have an exit option where the defendant's threats in her case involved her immigration status, she could not freely work for another employer in order to escape the threatened harm.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

<u>HN13</u>[基] Coercion & Harassment, Elements

Congress, which enacted 18 U.S.C.S. § 1589 to address traffickers who use more subtle means designed to cause their victims to believe that serious harm will result to themselves or others if they leave, as when a nanny is led to believe that the children in her care will be harmed if she leaves the home.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > Criminal
Offenses > Crimes Against Persons > General
Overview

HN14 L Coercion & Harassment, Elements

Document servitude occurs where a defendant knowingly conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document of another person in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. 18 U.S.C.S. § 1592(a)(1).

Criminal Law & Procedure > Criminal
Offenses > Crimes Against Persons > General
Overview

Criminal Law & Procedure > Criminal
Offenses > Miscellaneous Offenses > General
Overview

<u>HN15</u> Criminal Offenses, Crimes Against Persons

<u>18 U.S.C.S.</u> § <u>1592(a)</u> requires merely that the defendant possess the document, not that the defendant lock it up.

Criminal Law & Procedure > Appeals > Standards of Review > General Overview

<u>HN16</u>[♣] Appeals, Standards of Review

An appellate court cannot affirm a criminal conviction on the basis of a theory not presented to the jury.

Criminal Law & Procedure > ... > Standards of Review > Clearly Erroneous Review > Findings of Fact

Criminal Law & Procedure > Sentencing > Restitution

Criminal Law & Procedure > ... > Standards of

Review > Abuse of Discretion > General Overview

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > General Overview

<u>HN17</u>[♣] Clearly Erroneous Review, Findings of Fact

An appellate court reviews the district court's interpretation of the U.S. Sentencing Guidelines Manual de novo, the district court's application of the Sentencing Guidelines to the facts of a case for abuse of discretion, and the district court's factual findings for clear error. A restitution order is reviewed for an abuse of discretion, provided that it is within the bounds of the statutory framework. Factual findings supporting an order of restitution are reviewed for clear error. The legality of an order of restitution is reviewed de novo.

Criminal Law & Procedure > ... > Fraud > Fraud Against the Government > General Overview

Immigration Law > Admission of Immigrants & Nonimmigrants > Visa Eligibility & Issuance > General Overview

HN18 I Fraud, Fraud Against the Government

Visa fraud falls under <u>U.S. Sentencing Guidelines</u> <u>Manual § 2L2.1</u>, which governs Trafficking in a Document Relating to Naturalization, Citizenship, or Legal Resident Status, or a United States Passport; False Statement in Respect to the Citizenship or Immigration Status of Another. The base offense level under this Guideline is eleven and includes an enhancement of four levels if the defendant knew, believed, or had reason to believe that a passport or visa was to be used to facilitate the commission of a felony offense, other than an offense involving violation of the immigration laws. <u>U.S. Sentencing Guidelines</u> <u>Manual § 2L2.1(b)(3)</u>.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

<u>HN19</u>[♣] Coercion & Harassment, Elements

Sentencing for forced labor is governed by <u>U.S. Sentencing Guidelines Manual § 2H4.1</u>, for Peonage, Involuntary Servitude, Slave Trade, and Child Soldiers. The base level is 22. The offense may be subject to a three-level enhancement if any victim was held in a condition of peonage or involuntary servitude for more than one year, <u>U.S. Sentencing Guidelines Manual § 2H4.1(b)(3)</u>, and an additional two-level enhancement if any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense, § 2H4.1(b)(4).

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Penalties

<u>HN20</u> Sentencing Guidelines, Adjustments & Enhancements

<u>U.S. Sentencing Guidelines Manual § 2H4.1 cmt. n.1</u>. defines "peonage or involuntary servitude" as including forced labor.

Criminal Law &
Procedure > ... > Appeals > Standards of
Review > Clear Error Review

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

<u>HN21</u>[基] Standards of Review, Clear Error Review

An appellate court reviews a district court's factual findings in support of a sentencing enhancement for clear error. Reversal for clear error requires a definite and firm conviction that the district court made a mistake.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

HN22 Coercion & Harassment, Elements

See U.S. Sentencing Guidelines Manual § 2H4.1(b)(4).

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

HN23 Coercion & Harassment, Elements

The first step in an analysis under U.S. Sentencing Guidelines Manual § 2H4.1(b)(4) is to determine what it means to commit a crime in connection with forced labor under § 2H4.1(b)(4). There is an analogous provision in the offense guideline for unlawful possession of a firearm, U.S. Sentencing Guidelines Manual § 2K2.1(b)(6). If the defendant used or possessed any firearm or ammunition in connection with another felony offense; or possessed or transferred any firearm or ammunition with knowledge, intent, or reason to believe that it would be used or possessed in connection with another felony offense, increase by 4 levels. The commentary of § 2K2.1(b)(6) states that possession of a firearm in connection with another felony applies if the firearm or ammunition facilitated, or had the potential of facilitating, another felony offense or another offense, respectively. U.S. Sentencing Guidelines Manual § 2K2.1 cmt. 14. Clearly, the drafters must be held to define terms consistently throughout the Guidelines. Thus "in connection with" must mean facilitation. In the forced labor context, a felony is committed in connection with forced labor where that crime facilitates or has the potential of facilitating forced labor — or conversely where forced labor facilitates or has the potential of facilitating another felony offense.

Criminal Law & Procedure > ... > Sentencing Guidelines > Adjustments & Enhancements > General Overview

<u>HN24</u> Sentencing Guidelines, Adjustments & Enhancements

The United States Court of Appeals for the Ninth Circuit has interpreted the second half of <u>U.S. Sentencing</u> <u>Guidelines Manual § 2K2.1(b)(6)</u>— the enhancement that applies where a defendant possessed or

transferred any firearm or ammunition with knowledge, intent, or reason to believe that it would be used or possessed in connection with another felony offense. *U.S. Sentencing Guidelines Manual § 2K2.1(b)(6)*. To prove the application of this enhancement, the government must provide sufficient evidence that when the defendant came into possession of the firearm, he had a firm intent to use it to commit a felony. The intent requirement was drawn directly from the language of the enhancement (requiring knowledge, intent, or reason to believe). There is no comparable intent language in the forced labor Guideline under *U.S. Sentencing Guidelines Manual § 2K2.1*, and the court cannot read intent into the provision.

Criminal Law &
Procedure > ... > Appeals > Standards of
Review > De Novo Review

Criminal Law & Procedure > Sentencing > Restitution

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > General Overview

HN25 L Standards of Review, De Novo Review

An appellate court reviews legal issues regarding a restitution order de novo.

Criminal Law & Procedure > Sentencing > Restitution

<u>HN26</u>[♣] Sentencing, Restitution

The Mandatory Victims Restitution Act requires that a district court consider three factors before ordering restitution: (A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled; (B) projected earnings and other income of the defendant; and (C) any financial obligations of the defendant; including obligations to dependents. 18 U.S.C.S. § 3664(f)(2)(A)-(C). Any restitution order under this section may be enforced only as against property that is the defendant's own according to the relevant state law.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN27 L Enforcement, Arrearage Judgments

As a general rule, a parent's obligation to pay child support runs to the child, rather than to the other parent, and the parent, to whom such support is paid, is but a mere conduit for the disbursement of that support. Indeed, the equities between the parents do not alter the child support obligation. The United States Court of Appeals for the Ninth Circuit acknowledges California authority recognizing that when a custodial parent has expended her own resources, she may recover the accrued child support for her own benefit, and that the right of reimbursement may be assigned in certain circumstances. *Cal. Welf. & Inst. Code § 11477(a)* requires the assignment of child support arrearages to the state where the state has dispersed cash assistance to the child.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN28 Enforcement, Arrearage Judgments

The California Supreme Court has suggested that even the assignable right of reimbursement to the custodial parent is superceded if reimbursement is sought when the children are minors. For example, a custodial parent is estopped from bringing a claim for accrued child support if she concealed the children from the noncustodial parent when the children were minors. However, this is limited to cases where the custodial parent brings suit after the children have reached majority. A custodial parent may sue for accrued child support even if she previously concealed the child, so long as the child is not yet an adult. This seems to suggest that accrued payments belong to the child until adulthood. This distinction regarding the child's age is significant, because, in contrast to most adults, children (particularly those in their early years) in fairness cannot be expected to raise themselves and pursue an education without the financial support of responsible adults The child's need for sustenance must be the paramount consideration. If child support has not been paid for a period of time, it is likely that the child's needs were met at only a minimal level. Thus, a child may have accrued needs, including educational expenses or cultural opportunities, that may be met by an accrued child support payment, and these needs trump the custodial parent's entitlement to reimbursement.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN29 Enforcement, Arrearage Judgments

Read together, Damico and Comer suggest that so long as the children have not reached majority, a custodial parent remains the conduit for child support — even accrued child support. Therefore the United States Court of Appeals for the Ninth Circuit concludes that under California law, a creditor (or a crime victim with a restitution order) is not entitled to accrued child support payments owed to a custodial parent of children who have not yet reached the age of majority.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN30[♣] Enforcement, Arrearage Judgments

Under California law, the custodial parent, not the child, has the beneficial interest in collecting arrearages in child support. Spirtos, Shasta and Lackey cite Utigard for the proposition that a child is not the real party of interest in accrued child support. Utigard, however, involves adult children's interest in collecting child support arrearages.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN31 L Enforcement, Arrearage Judgments

Now adult children have no interest in accrued child support.

Family Law > ... > Support
Obligations > Modification > Best Interests of Child

Family Law > ... > Custody Awards > Standards > Best Interests of Child

Family Law > ... > Visitation
Awards > Standards > Best Interests of Child

Family Law > Child Support > Support Obligations > General Overview

HN32[♣] Modification, Best Interests of Child

Throughout the case law, California courts are guided by a fundamental principle: In any proceedings involving custody and support it is axiomatic that the court should always adopt the course that is for the best interests of the child.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN33[♣] Enforcement, Arrearage Judgments

Under California law, the custodial parent is a conduit for accrued child support to meet the needs of her minor children.

Family Law > ... > Support
Obligations > Enforcement > Arrearage Judgments

HN34 L Enforcement, Arrearage Judgments

The United States Court of Appeals for the Ninth Circuit reads California law as stating that, until a child reaches the age of majority, the child is the real party of interest in child support arrearages. To the extent that accrued child support payments are made to a parent while she is in prison, she remains a conduit for her child's support and free to disperse those funds for the care of her child. Accrued child support is simply not the property of the parent (of a child who has not yet reached majority) to be redistributed to a victim as restitution.

Family Law > ... > Support
Obligations > Modification > Best Interests of Child

HN35 Modification, Best Interests of Child

The single most important question in an action that involves child support in any form is the need and interest of the minor child. State family courts or probate courts are best equipped to balance the equities and determine the best interest of children, and federal courts should not interfere by exercising authority over child support payments in a criminal proceeding.

Counsel: Barry J. Portman, Federal Public Defender, and Jerome E. Matthews, Assistant Federal Public Defender, Oakland, California, for the defendant-appellant.

Thomas E. Perez, Assistant Attorney General, Civil Rights Division Melinda Haag, United States Attorney, Barbara J. Valliere, Chief, Appellate Section, and Assistant United States Attorney, Merry Jean Chan, Assistant United States Attorney, San Francisco, California, for the plaintiff-appellee.

Judges: Before: Betty B. Fletcher and Sidney R. Thomas, Circuit Judges, and Nancy Gertner, District Judge.* Opinion by Judge Gertner.

Opinion by: Nancy Gertner

Opinion

[*1162] GERTNER, District Judge:

Mabelle de la Rosa Dann ("Dann") was charged with conspiracy to commit visa fraud (count one), visa fraud (count two), forced labor (count three), unlawful conduct regarding documents in furtherance of servitude (count four),¹ and harboring an illegal alien for the purpose of private financial [**2] gain (count five). All charges arose out of conduct involving her live-in nanny and housekeeper, Zoraida Peña Canal ("Peña Canal").

Dann, an American citizen of Peruvian descent, arranged for Peña Canal to travel from her native Peru to the United States in 2006 and enter under a fraudulently-obtained visa to serve as a nanny and housekeeper. Dann was going through a divorce at the time, was unemployed, and was not receiving child support. Once Peña Canal arrived, Dann kept her passport, forbade her from speaking with anyone outside the home, and failed to pay her for two years, although she often promised that she would. She repeatedly threatened to send Peña Canal back to Peru; and yet when Peña Canal agreed to go home, Dann told her that she would owe her \$8,000 because she had only worked off \$7,000 of the \$15,000 worth of "expenses" that Dann had paid on her behalf. Dann eventually asked Peña Canal to sign a false statement that she had been paid minimum wage. This statement, along with Peña Canal's passport and Peruvian identification, were later found by U.S. Immigration and Customs Enforcement ("ICE") agents underneath [**3] clothes in a drawer in Dann's room.

Dann was convicted after a jury trial on all five counts and sentenced to 60 months' imprisonment. The district court ordered that she pay restitution to Peña Canal of \$123,740.34. And because the court found that Peña Canal (who was living in a shelter) needed money immediately, the court ordered Dann to turn over any accrued child support payments that she received from her ex-husband while incarcerated directly to Peña Canal. Dann's children were eligible for child support. Her eldest son is now sixteen, and her twins are ten years old.

Dann appeals her convictions for forced labor as well as for the related offenses of document servitude and harboring an alien for financial gain. She also appeals three sentencing enhancements under the United States Sentencing Guidelines ("U.S.S.G.") and the district court's restitution order.

As we explain below, we affirm the convictions on all counts as supported by sufficient evidence. With respect to sentencing, we decline to reach the merits of the first enhancement for visa fraud because it does not affect the guidelines offense level; we affirm the second enhancement for holding Dann in forced labor for [**4] over one year; and we affirm the third enhancement for committing a felony "in connection with" forced labor.

[*1163] Finally, we reverse the district court's restitution order. This case raises a question of first impression: whether child support arrearages belong to a criminal defendant such that they may be assigned to a victim by a restitution order while the defendant's children are still minors. Upon review of California case law, we conclude that the minor child is the real party in interest to accrued child support. Until the child reaches the age of majority, the parent remains a conduit of the support and may distribute it for his benefit. Thus, any money that Dann receives for child support does not belong to her but rather to her children; it cannot be assigned to Peña Canal.

BACKGROUND

I. Factual Background

The parties at trial and on appeal present two competing narratives. Dann contends that this case is a not unusual story of the relationship between two women, with all its ups and downs. As a divorced, single mother with three small children, Dann was desperate. She gave Peña Canal the opportunity to come to the United

^{*}The Honorable Nancy Gertner, United States District Judge for the District of Massachusetts, sitting by designation.

¹ The parties refer to this charge as "document servitude."

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States, and she treated her as a family member. Dann took [**5] care of, housed, and fed Peña Canal, and wanted to pay her as soon as she had the chance. Dann hoped to give Peña Canal a room of her own but was unable to do so. The two women had their fights, as all family members do. After Peña Canal left Dann, she discovered that she could obtain a T-Visa and stay in the United States, as long as she testified against Dann.² Peña Canal's testimony is tainted by her incentive to lie.

The government in turn portrays a woman who went to great lengths to violate immigration laws so that Peña Canal could work for her. She needed cheap — or free — labor, and this was her means of procuring it. Her behavior towards Peña Canal became worse and worse over time, culminating in Peña Canal's working without pay in slave-like conditions, fearful of what would happen if she were to leave.

Since Dann was convicted, however, the two narratives [**6] are not on equal footing. The Court is to construe all facts in favor of the verdict. The facts below are therefore presented in the light most favorable to the prosecution. <u>Jackson v. Virginia</u>, <u>443 U.S. 307</u>, <u>319</u>, <u>99 S. Ct. 2781</u>, <u>61 L. Ed. 2d 560 (1979)</u>.

1. Dann Brings Peña Canal to the United States

Dann is a naturalized American citizen of Peruvian descent who graduated from U.C. Berkeley's Business School. She first met Peña Canal during a brief visit to Peru in March of 2002, when Peña Canal was working as a nanny for Dann's sister. Dann suggested that Peña Canal come to the United States to nanny for her family instead.

Dann returned to Peru a few months later and hired Peña Canal to take care of her twin baby boys during the trip. Again she spoke of taking Peña Canal to the United States. She promised Peña Canal the opportunity to study English and a salary that would increase from \$300 to \$600 per month. At trial, Peña Canal testified that even at that time, Dann spoke about deductions, calculations, and costs, such as the cost of

² <u>HN1</u> For a T-Visa to be issued pursuant to <u>8 U.S.C. §</u> <u>1101(a)(15)(T)(i)(l)</u>, agents or prosecutors have to submit a letter to Immigration Services certifying that the visa applicant has been the victim of a "severe form of trafficking in persons," and the visa applicant must also cooperate in the prosecution of the trafficker.

a visa and the cost of housing in the United States.

Dann and Peña Canal went about the process of applying for a visa. Dann filled out the papers for Peña Canal and told her [*1164] to pretend [**7] that she was a tourist going to the United States for vacation. Dann told her that it would be more believable if Peña Canal said that she had a daughter in Peru or a mother who was sick, and so on her first application, Peña Canal stated that she had a four-year-old daughter and presented a false birth certificate as proof. That application was denied.

Dann filled out a second application, this time stating that she and Peña Canal, along with the twins, would go to the United States for Thanksgiving and then return. This time Peña Canal was granted an interview at the U.S. Consulate, but this application was also denied. Dann returned to the United States in November of 2002 but vowed to send for Peña Canal, even if it meant smuggling her with "coyotes" through Mexico.

During the following two years, Dann tried to help Peña Canal come to the United States on three occasions. Dann was going through a divorce, and in 2004 she wrote to Peña Canal:

Dear Zoraida,

I hope you are well. Here, I'm trying to do everything possible to get ahead all alone and with the responsibility of three children. As you probably know, my divorce will be finalized very soon. Now, the judge has ordered that I [**8] must go out and work. And I need more help than ever . . . I'm going to try and see how to bring you over here. As you probably know, a man that my brother is acquainted with is going to get in touch with you very soon and will try to bring you. Don't tell anyone from your family

Finally, in December 2004, Dann arranged for Peña Canal to contact Dann's friend, Silvana de la Rosa ("Silvana"). Dann and Silvana entered into a contract to bring Peña Canal to the United States. Silvana would pretend that she was so frail from cancer that she needed an assistant, Peña Canal, to travel with her. Dann hired a consultant to teach Peña Canal how to lie to immigration officials, with whom Peña Canal met regularly over a period of several months before her interview at the consulate. Peña Canal was granted a tourist visa and entered the United States on July 27, 2006.

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At this point, Dann was unemployed and receiving no child support. She and her three children were living with her mother.

2. Work Conditions with Dann

When Peña Canal arrived in the United States, she moved in with Dann and Dann's three boys at Dann's mother's house. The house was cramped, and Peña Canal slept on the floor. [**9] Dann promised that they would be there for only a few days, and then they would move to a bigger apartment where they would have more privacy. Around this time, Dann took Peña Canal's passport for safe-keeping, since Peña Canal did not have any private or secure space of her own. When Silvana left the country, Dann tore up Peña Canal's return ticket to Peru along with the contract to bring Peña Canal to the United States.

Eventually, in late September of 2006, Dann, her three children, and Peña Canal moved out of Dann's mother's house and into a two-bedroom apartment. Here again, Peña Canal did not have a room of her own. She slept on the floor in the corner of the living room. Dann began working as a real estate agent but funds were tight. She promised Peña Canal that she would pay her as soon as she got on her feet. Dann, however, never paid Peña Canal.

Peña Canal's workday began at 6:00 a.m. when she made breakfast for Dann and the boys. Once the boys were off to school, she had until noon to clean the **[*1165]** apartment, do laundry and ironing, and prepare lunch. At about 12:30 p.m., she walked thirty minutes to the twins' school to pick them up. She would feed them lunch and then supervise **[**10]** their homework until the elder son came home. She would take the children out to play, feed them dinner at 6:00 p.m., and then get them ready for bed at 8:00 p.m. After the children were asleep, she would tidy the house before retiring at about 10:00 p.m.

The conditions — and the relationship — worsened over time. In January of 2007, Dann forbade Peña Canal from leaving the apartment without permission. When Dann's friends came over, she made Peña Canal hide in the gym of the apartment complex. She told Peña Canal not to talk to anyone because she did not want Peña Canal to tell "anybody about the things here at home." At trial, the property manager of Dann's apartment complex testified that Dann told him to order Spanish-speaking personnel not to speak with Peña Canal.

Sometime in the winter of 2007, Dann began restricting Peña Canal's food intake. Dann forbade Peña Canal from eating fruit or drinking tea without permission. Eventually, Dann began weighing the meat and counting eggs and bread to make sure Peña Canal was not eating more than her ration.

By February 2007 — seven months after Peña Canal's arrival in the United States — Dann still had not paid Peña Canal. At that time, Dann [**11] told Peña Canal:

You shouldn't — you shouldn't think that I'm treating you like a slave, you shouldn't think that I'm treating you like a slave. I'm going to pay you. I don't want for you to leave me because I don't know what would happen to my children. Where would I keep them? The government would take them from me.

Dann continued to promise to pay Peña Canal. In March of 2007, she opened a bank account for Peña Canal (falsely informing the bank that Peña Canal worked for Whole Foods). Dann kept the bank documents; the personal checks issued to the account were later found in her possession.

In January 2008, the two women had a heated argument because Dann thought that Peña Canal had spoken to her son's trombone teacher without permission. Dann said, "I told you not to talk to anybody. Why did you go and talk to the teacher? Did you want to practice your English?" She threatened to send Peña Canal back to Peru. She said, "I'm giving you a chance to be here in this country. I'm going to buy your ticket right now. But first, I'm going to figure out our accounts." Dann concluded that Peña Canal owed a total of \$15,000, of which she had worked off only \$7,000.

Dann falsely accused Peña Canal [**12] of stealing from her on at least four occasions. The last of these, on March 1, 2008, resulted in another argument. This time, Peña Canal stood up to Dann and said,

You know what? If I'm here in the United States, [it] is so that I can make as much as a dollar even honestly. Even if it's cleaning bathrooms, but honest money. I've never taken anybody's money in Peru and even less here. . . . If you think that I'm stealing from you, call the police. Call the police.

Peña Canal went into the bathroom to wash her face, and Dann followed her in and turned off the light. Dann then grabbed Peña Canal by the neck, called her names, and said she was going to send her back to Peru. When Peña Canal answered that she actually wanted to go home, Dann reminded her of all the clothes that Dann had purchased for her.

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Dann continued to insult Peña Canal often, calling her "little girl" and "shit." On March 27, 2008, Peña Canal told Dann [*1166] to replace a radio she had broken, and Dann said, "You're talking to me about rights. What rights do you have in the United States? . . . You're a peasant. I'm giving you an opportunity here in this country." Peña Canal replied, "You're treating me like a slave. You're [**13] not paying me. You're not paying me. And besides that, you broke my radio." Dann countered, "This is my house. In my house, I can do whatever I want."

A few days later, Dann told her mother — in front of Peña Canal — that Peña Canal had no rights "since here in the United States, the illegal people don't even have as much as Medi-Cal. They die here." Then Dann ordered Peña Canal to sign a letter that stated that Dann had paid her minimum wage in California. The agreement stated in full:

I, Zoraida Peña, have received from Ms. Mabelle Dann the minimum wage in the State of California starting on July 27th, 2007, for the care of her children [names omitted] home from school at 2:30 to 6:00 p.m.. In addition, I receive lodging. I occupy the entire living room for a value of \$500 in rent. And food, breakfast, lunch, food [sic] and dinner every day.

In addition to this, I have received some clothes items and gifts from members of Mabelle's family. Perfumes, clothes items, shoes, jackets, pants, et cetera. I have received a yearly total of \$10,200.

Peña Canal testified that she signed the letter, knowing that its contents were false.

At trial, the prosecutor asked Peña Canal why she had stayed [**14] with Dann; Peña Canal answered: (i) she didn't trust anybody and had nowhere to go; (ii) Dann had her passport; (iii) Dann was making false accusations against her that she was taking her money; and (iv) the children were her responsibility.

3. Peña Canal's Departure

Peña Canal had made friends at the twins' school when she went to pick them up. Although she did not speak English, there were a few Spanish-speakers at the school, including the school custodian, Anselma Soto ("Soto"). Peña Canal told him about her working conditions, that she had not been paid, and that she was not allowed to talk to anyone. Eventually Peña Canal began keeping some of her belongings with Soto in an envelope at the school. She also became friends

with a gardener, Miguel Lopez ("Lopez"). She told him that she was afraid to leave work because Dann "was accusing her, saying that she was going to report her to immigration, that she was illegal and that she couldn't be in this country." Another mother at the school, Amy Oz ("Oz") began giving Peña Canal rides to and from school. She spoke a little Spanish, and Peña Canal told her that she would get in trouble if she was found talking with her. In March of 2008, [**15] Oz contacted La Raza Centro Legal, an organization that assists domestic workers, on Peña Canal's behalf.

Soto, Lopez, and Oz helped Peña Canal leave on April 16, 2008. Peña Canal dropped the children off at the school. She then went through the school kitchen and hid in a car that was driven to a safe house. Oz was responsible for calling Dann to tell her that she would need to pick up her children herself and that she should pick up a letter from Peña Canal at the school. The letter contained keys to Dann's apartment and asked Dann to return Peña Canal's passport and Peruvian identification.

When Dann got to the school and read the letter, she became hysterical. She said that Peña Canal had taken everything — she had emptied Dann's house, taken the keys, all her jewelry and all her money. Dann later told Oz that Peña [*1167] Canal had been a terrible nanny who had stolen her jewelry. On April 21, 2008, Dann emailed her sister and said, "Zoraida escaped, got away, left. But at least she was here for two years. But I realized from the day she got here that she wanted to look for another job."

Meanwhile, Peña Canal met with a lawyer from La Raza Centro Legal, the immigration advocacy group with [**16] whom Oz had spoken on her behalf. She had told Oz that she wanted to stay in the United States. La Raza contacted ICE and reported Peña Canal's situation. Upon ICE's recommendation, Peña Canal was granted a T-Visa pursuant to 8 U.S.C. § 1101(a)(15)(T)(i)(I) (requiring that the victim cooperate in the prosecution of the trafficker).

Peña Canal also filed a civil suit against Dann and her mother, Vittett, seeking civil, punitive and other damages. Peña Canal was granted a default judgment and \$612,812.82 in compensatory and punitive damages. <u>Canal v. Dann, No. 09-03366CW, 2010 U.S. Dist. LEXIS 97856, 2010 WL 3491136, at *4 (N.D. Cal. Sept. 2, 2010)</u>.

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4. Passport and Identification Papers

Dann never returned Peña Canal's passport or Peruvian identification. A police officer testified that he went to the apartment on Peña Canal's behalf to ask for these papers. Dann was not present but called him back later. She denied having any documents, denied knowing what he was talking about, and denied having any property that belonged to Peña Canal.

In June of 2008, ICE agents searched Dann's apartment. They found Peña Canal's passport, her Peruvian identification card, and checks for a bank account in her name, along with the [**17] agreement that Dann had forced her to sign about minimum wage, all buried under clothing in a drawer in Dann's room.

II. Procedural Background

On June 5, 2008, Dann was charged in a one-count indictment with harboring an illegal alien for purpose of private financial gain, in violation of <u>8 U.S.C.</u> § <u>1324(a)(1)(A)(iii)</u> and <u>(B)(i)</u>. On February 4, 2009, the government filed a superceding indictment, charging Dann with five counts: (i) conspiracy to commit visa fraud in violation of <u>18 U.S.C.</u> §§ 371 and <u>1546(a)</u>; (ii) visa fraud in violation of <u>18 U.S.C.</u> § 1546(a); (iii) forced labor and attempted forced labor in violation of <u>18 U.S.C.</u> § 1592; and (v) harboring an illegal alien for private financial gain in violation of <u>8 U.S.C.</u> §§ 1324(a)(1)(A)(iii) and (B)(i).

After a jury trial, Dann was convicted on all five counts. During deliberations, the jury asked four questions. One question was about visa fraud. The other questions were about the forced labor charge.

The district court instructed the jury that forced labor has three elements: (1) that Dann obtained or attempted to obtain the labor or services of Peña Canal; (2) by [**18] means of a scheme, plan or pattern intended to cause Peña Canal to believe that, if she did not perform such labor or services, she or another person would suffer serious harm; and (3) that Dann acted knowingly. The jury asked, "Must the charge of forced labor apply to the entire duration of Ms. Peña Canal's service, or can it be applied only to a portion of the time?" The district court answered, "It need not apply to the entire duration of Peña Canal's service. It could be applied to only a portion of the time."

The jury also asked, "Is the duration of time relevant to

determining serious harm?" The district court answered, "Yes, the duration of time is relevant. A harm that might be serious if it happened for only a short — that might not be serious [*1168] if it happened for a short time might be serious if it went on for a very long time." Shortly after this instruction, the jury returned with a unanimous verdict of guilty on all five counts.

On October 15, 2009, Dann filed a motion for judgment of acquittal and/or motion for new trial. Dann had also made an oral motion for a judgment of acquittal after the government rested and at the close of all the evidence. The district court denied [**19] these motions in a written order on December 23, 2009. <u>United States v. Dann, No. 08-00390, 2009 U.S. Dist. LEXIS 122774, 2009 WL 5062345 (N.D. Cal. Dec. 23, 2009)</u>.

On April 14, 2010, the district court sentenced Dann to 60 months on each count, to run concurrently. The court also ordered restitution in the amount of \$123,740.34, payable to Peña Canal. As part of this restitution, the district court ordered that any accrued child support payable to Dann while she is incarcerated be paid directly to Peña Canal.

Dann filed a notice of appeal on April 22, 2010. On April 28, 2010, she filed a motion under <u>Federal Rule of Criminal Procedure 35(a)</u> to correct the sentence on the grounds that the district court erred when it ordered accrued child support to be paid to the victim. The district court denied this motion on July 22, 2010. <u>United States v. Dann, No. 08-00390, 2010 U.S. Dist. LEXIS</u> 83294, 2010 WL 2891585 (N.D. Cal. July 22, 2010).

Dann appeals her conviction and sentence. We address each in turn below.

CONVICTION

I. Standard of Review

Dann argues on appeal that there was insufficient evidence to support her conviction for forced labor, document servitude, and harboring an illegal alien for financial gain. <u>HN2</u> The Court reviews the district court's [**20] denial of a motion for acquittal *de novo*. See, e.g., <u>United States v. Carranza</u>, 289 F.3d 634, 641 (9th Cir. 2002).

HN3 The Court asks whether, "[a]fter viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential

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elements of the crime beyond a reasonable doubt." <u>Jackson, 443 U.S. at 319</u>. The analysis requires two steps: First, the court reviews the evidence presented at trial in the light most favorable to the prosecution; then, the court determines whether the evidence, so construed, would allow any rational trier of fact to find the defendant guilty of the crime beyond a reasonable doubt. See, e.g., <u>United States v. Nevils, 598 F.3d 1158</u>, 1164 (9th Cir. 2010) (en banc). The Nevils court cautioned:

This means that a court of appeals may not usurp the role of the finder of fact by considering how it would have resolved the conflicts, made the inferences, or considered the evidence at trial. Rather, when faced with a record of historical facts that supports conflicting inferences a reviewing court must presume — even if it does not affirmatively appear in the record — that the trier of fact resolved any such conflicts in favor [**21] of the prosecution, and must defer to that resolution.

Id. (quotation marks and citations omitted).

Nevertheless, Dann will prevail if, once all of the evidence has been construed in favor of the government, the evidence is still "so supportive of innocence that no rational juror could conclude that the government proved its case beyond a reasonable doubt." *Id. at 1167*.

II. Discussion

Dann argues that the evidence was insufficient to support a conviction for three of the five crimes for which she was convicted: [*1169] forced labor, document servitude, and alien harboring for financial gain. We consider each in turn.

A. Forced Labor

First, Dann argues that she should be acquitted of forced labor because there was insufficient evidence that she intended to threaten serious harm.

The federal forced labor statute, <u>18 U.S.C. § 1589(a)</u>, provides:

HN4 (a) Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—

(1) by means of force, threats of force, physical

- restraint, or threats of physical restraint to that person or another person;
- (2) by means of serious harm or threats of serious harm to that person or another person;
- (3) by means [**22] of the abuse or threatened abuse of law or legal process; or
- (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint,

shall be punished as provided under subsection(d).

The government limited this case to the fourth means of violating the forced labor statute, and the court instructed:

If you find that Dann obtained the labor or services of Peña Canal, then you must determine whether she did so by means of a scheme, plan, or pattern intended to cause Peña Canal to believe that, if she did not perform such labor or services, she or another person would suffer serious harm.

The court then defined serious harm exactly as described in the statute, which includes "physical or nonphysical" harm, "including psychological, financial or reputational harm." 18 U.S.C. § 1589(c)(2). The jury convicted on this count.

Dann does not challenge the instruction. Rather she argues that her relationship with Peña Canal does not fit within the forced labor statute and that the evidence presented was insufficient to support the conviction as a matter [**23] of law.

1. Serious Harm Under § 1589

The acts proved by the government in this case are well within the scope of the Victims of Trafficking and Violence Protection Act of 2000. *Pub. L. No. 106-386, 114 Stat. 1464.* HN5 Legislative history suggests that Congress passed this act to correct what they viewed as the Supreme Court's mistaken holding in *United States v. Kozminski, 487 U.S. 931, 108 S. Ct. 2751, 101 L. Ed. 2d 788 (1988). Kozminski* limited the definition of involuntary servitude to "physical" or "legal" coercion. *Id. at 952.* In § 1589, Congress intended to "reach cases in which persons are held in a condition of servitude through nonviolent coercion." Victims of Trafficking and Violence Protection Act of 2000 §

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102(b)(13).

Congress concluded that the means used by modernday traffickers are "increasingly subtle." H.R. Rep. No. 106- 939, at 101 (2000) (Conf. Rep.), 2000 WL 1479163, at *91. And therefore § 1589 defines harm broadly as:

any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing [**24] labor or services in order to avoid incurring that harm.

18 U.S.C. § 1589(c)(2). In other words, someone is guilty of forced labor if he [*1170] intends to cause a person in his employ to believe that if she does not continue to work, she will suffer the type of serious harm — physical or nonphysical, including psychological, financial, reputation harm — that would compel someone in her circumstances to continue working to avoid that harm. See, e.g., United States v. Calimlim, 538 F.3d 706, 712, 714 (7th Cir. 2008) (finding threat to stop paying victim's poor family members constitutes serious harm).

HN6[1] To be sure, not all bad employer-employee relationships or even bad employer-immigrant nanny relationships will constitute forced labor. First, the threat of harm must be serious. Congress intended to address serious trafficking, or cases "where traffickers threaten harm to third persons, restrain their victims without violence or injury, or threaten consequences by means other than overt violence." H.R. Rep. No. 106-939, at 101 (Conf. Rep.). According to the statute, the threat, considered from the vantage point of a reasonable person in the place of the victim, must be "sufficiently [**25] serious" to compel that person to remain. See 18 U.S.C. § 1589(c)(2).

Second, HNT the scope of the statute is narrowed by the requirement of scienter. Calimlim, 538 F.3d at 711-12. The jury must find that the employer intended to cause the victim to believe that she would suffer serious harm — from the vantage point of the victim — if she did not continue to work. While the serious harm need not be effectuated at the defendant's hand, the statute "requires that the plan be intended to cause the victim to believe that that harm will befall her." Id. (internal quotation marks and punctuation omitted). The linchpin

of the serious harm analysis under § 1589 is not just that serious harm was threatened but that the employer intended the victim to believe that such harm would befall her.

2. Evidence of Intent

Here, Dann argues that there was insufficient evidence that she intended to make Peña Canal believe that she would suffer serious harm if she were to stop working for Dann. The government counters that the evidence supports Dann's intent to have Peña Canal believe: (i) that she would not be paid back wages for close to two years of work and in fact would owe Dann \$8,000 for expenses already [**26] paid; (ii) that Dann would falsely accuse her of wrongdoing and cause reputational harm; (iii) that Peña Canal would suffer immigration consequences because she would either not be able to leave the country at all (since Dann held her passport and papers) or she would be sent back to Peru and would not have the opportunity to study in the United States; and (iv) that the children for whom she cared would be taken from their mother.3

[*1171] HN10[1] While we consider each of these

³ Dann suggests on appeal that the government has waived its right to argue as to these last two harms because the government focused primarily on financial and reputational harm at trial and in response to the defendant's post-trial Rule 25(a) motion. See *McCormick v. United States*, 500 U.S. 257, 270 n.8, 111 S. Ct. 1807, 114 L. Ed. 2d 307 (1991) (HN8 ↑] "This Court has never held that the right to a jury trial is satisfied when an appellate court retries a case on appeal under different instructions and on a different theory than was ever presented to the jury. Appellate courts are not permitted to affirm convictions on any theory they please simply because the facts necessary to support the theory were presented to the jury.").

In this case, however, the jury was instructed clearly on the broad [**27] definition of "serious harm." HN9[1] At this stage in the litigation, we are to ask whether the evidence produced at trial was sufficient for any reasonable juror to convict according to the instructions that he was given. While the government focused on reputational and financial harm, there was surely evidence of other harms presented to the jury. And in fact, the jury may have concluded that the combination of these various harms was sufficiently serious as to compel a reasonable person in the victim's position to continue to work. This is not a case where the government suddenly suggests on appeal an entirely different theory that would have required different instructions. *Cf. id.*

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harms separately below, we are to ask whether, from the vantage point of an immigrant in Peña Canal's position, these harms — taken together — were sufficiently serious so as to compel her to remain in Dann's employ.

a. Financial Harm

First, Dann argues that there was insufficient evidence that Dann intended Peña Canal to believe that she would suffer serious financial harm if she were to leave. Dann points out that Peña Canal never testified that Dann told her that she would not [**28] be paid back wages. That may well be true, but the inference was clear. Dann told Peña Canal that she would owe money if she left. After one argument, Dann said, "I'm giving you a chance to be here in this country. I'm going to buy your ticket right now. But first, I'm going to figure out our accounts." And then she concluded that Peña Canal owed her a total of \$15,000, of which only \$7,000 had been worked off. On another occasion, when Peña Canal told Dann to send her home, Dann began to calculate the cost of clothes that she had purchased for Peña Canal.

Moreover, as the district court pointed out, Dann made Peña Canal sign a note stating that she had been paid minimum wage. The district court found this fact persuasive:

The jury could make three reasonable inferences from this note when considered in conjunction with Defendant's false promises to pay Ms. Peña Canal and the debt Defendant imposed on Ms. Peña Canal: (1) Defendant had no intention of paying Ms. Peña Canal, (2) Defendant had a consciousness of guilt for not paying Ms. Peña Canal so she wanted to preserve the note to guard against any possible future charges and (3) Defendant wanted Ms. Peña Canal to be aware that Defendant [**29] would keep this note to deter her from trying to enforce her rights.

<u>Dann, 2009 U.S. Dist. LEXIS 122774, 2009 WL 5062345, at *2</u>. We agree.

We conclude that there was sufficient evidence for a reasonable juror to find that Dann intended Peña Canal to believe that Peña Canal would suffer financial harm and that that financial harm was "sufficiently serious" within the meaning of the statute. For an immigrant without access to a bank account and not a dollar to her name, a juror could conclude that the failure to pay her

— and thus the lack of money to leave or live — was sufficiently serious to compel Peña Canal to continue working.⁴

b. Reputational Harm

Second, Dann argues that there was insufficient evidence that Dann intended [**30] that Peña Canal believe that Peña Canal would suffer reputational harm if she were to leave. Again, Dann points out that Peña Canal never testified that Dann told her that she would call Peña Canal a thief if she left or that Dann would tell people back in Peru that she was untrustworthy. But here again, <u>HN11[*]</u> we are to draw every inference in favor of the guilty verdict.

[*1172] The jury heard evidence that Dann falsely accused Peña Canal of theft on four occasions. The jury could reasonably conclude that Dann intended Peña Canal to believe that she would in fact falsely accuse her when she left. And in fact that fear was realized: When Dann read Peña Canal's letter, she told everyone within earshot at the school that Peña Canal was a thief who had robbed her and taken everything she had.

c. Immigration Harm

There was also evidence that Dann intended Peña Canal to fear immigration harm. As the Seventh Circuit articulated in *Calimlim*, <u>HN12[1]</u> a victim has fewer means of escape where the threats in her case involve immigration. <u>538 F.3d at 712</u> (noting that the immigrant victim "did not have an exit option: because the threats in her case involved her immigration status, she could not freely work for another [**31] employer in order to escape the threatened harm.").

While Dann never explicitly threatened deportation, she did repeatedly threaten to send Peña Canal back to Peru. That threat alone — to be forced to leave the country — could constitute serious harm to an

⁴ Dann argues that the government's case fails because Peña Canal told officials that "it wasn't about the money," that she didn't stay for the money. As we have said, however, the linchpin of this analysis is the intent of the employer, or in this case what Dann *intended* Peña Canal to believe in order to induce her to stay in her employ. And here it is clear that a reasonable juror could conclude that Dann intended Peña Canal to believe that she would suffer financial harm if she were to leave.

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immigrant who came to the United States in part to study English and who dreamed of starting a business. See <u>United States v. Djoumessi, 538 F.3d 547, 552 (6th Cir. 2008)</u> (noting that the defendant's threats to send victim back to Cameroon were coercive in light of the victim's special vulnerability as illegal immigrant). Dann also had custody of Peña Canal's passport and Peruvian identification; Peña Canal testified that she stayed in part because Dann held her papers. And in fact, when she did leave, the only request she made of Dann in her closing letter was the return of her Peruvian passport and identification.

Thus the evidence, taken in the light most favorable to the prosecution, suggests that Dann intended to inspire two related immigration fears in Peña Canal: that she would be forced to leave the country *or* that she would not be able to leave the country because she had no documents. Both threats are serious, and this exercise [**32] of control is further evidence of scienter. And in fact Dann used the word "escape" to describe Peña Canal's eventual departure.⁵ A juror could reasonably have concluded that Dann intended to keep Peña Canal in fear of serious immigration consequences.

d. Harm to the Children

Finally, there was evidence to suggest that Dann intended Peña Canal to fear what would happen to the children if she were to leave. Such a fear is squarely within the intent of https://hww.millim.nih.google.com/hw13 Congress, which enacted https://www.millim.nih.google.com/hw13 to address "traffickers [who] use more subtle means designed to cause their victims to believe that serious harm will result to themselves or others if they leave, as when a nanny is led to believe that the children in her care will be harmed if she leaves the home." H.R. Rep. No. 106-939, at 101 (Conf. Rep.) (emphasis added).

Peña Canal testified that she did not leave because she worried about what would happen to the children. In February of 2007, Dann told her,

You shouldn't — you shouldn't [**33] think that I'm treating you like a slave, you shouldn't think that I'm treating you like a slave. I'm going to pay you. I don't want for you to leave me because I don't know

⁵ Specifically, on April 21, 2008, Dann e-mailed her sister and said, "Zoraida escaped, got away, left. But at least she was here for two years. But I realized from the day she got here that she wanted to look for another job."

what would happen to my children. [*1173] Where would I keep them? The government would take them from me.

There are two reasonable interpretations: Dann may have been apologizing for not paying Peña Canal and pleading with her to stay so that she would not lose her children. Alternatively, Dann may have been threatening that the children would suffer if Peña Canal were to leave — exactly the type of coercion that Congress envisioned. Again, drawing all inferences in favor of the verdict, we must assume that the jury came to the latter conclusion. A juror could conclude that a reasonable person in Peña Canal's position — that is, a nanny who had cared for three boys from infancy — would feel compelled to stay on account of such a threat.

In sum, a reasonable juror could have concluded that Dann intended to cause Peña Canal to believe that she would suffer financial, reputational, and immigration harms, as well as cause harm to Dann's children. Such a juror could further conclude that the *sum* of these threatened harms would [**34] have compelled a reasonable person in Peña Canal's position to continue to work for Dann. Having determined that there was sufficient evidence to support Dann's conviction for forced labor, we AFFIRM the district court's denial of Dann's *Rule* 35(a) motion on this ground.

B. Document Servitude

Dann also challenges her conviction for document servitude, which arises out of her forced labor conviction. https://www.mises-en/lines/ Document servitude occurs where a defendant "knowingly . . . conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document . . . of another person . . . in the course of" trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person . . . in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person . . . in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person . . . in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person . . . in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person . . . in the course of trafficking, peonage, slavery, involuntary servitude or forced labor. https://www.mises-en/lines/ another person of the person of

First, Ms. Dann concealed, removed, confiscated, or possessed Ms. Peña Canal's passport or other immigration document or government identification document. Second, such acts were undertaken in the course of committing or with the intent to commit the crime of forced labor. Third, that Ms. Dann acted knowingly in doing such an act or acts.

Dann challenges the second element.

Dann first argues that there [**35] was insufficient evidence that she had any intent to commit forced labor, an argument we have already rejected. Second, Dann

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argues that even if she had the intent to commit forced labor, she did not keep Peña Canal's documents in order to commit that offense. She notes that Peña Canal testified that she gave her documents to Dann because she did not have any safe place to put them; she did not testify that she looked for the documents or that she asked Dann to give them back to her. Indeed, this case stands in contrast to other document servitude cases where the passports were kept in a locked drawer, or where an employer confiscated documents upon arrival. See, e.g., <u>United States v. Sabhnani, 599 F.3d 215, 245 (2d Cir. 2010)</u>; <u>United States v. Farrell, 563 F.3d 364, 376-77 (8th Cir. 2009)</u>.

HN15 The statute, however, requires merely that the defendant "possess[]" the document, not that the defendant lock it up. 18 U.S.C. § 1592(a). Here, the jury heard evidence that when the police asked Dann for the papers on Peña Canal's behalf, she claimed that she did not have them. They heard evidence that the documents were ultimately found alongside the note about minimum wage, buried under clothes [**36] in a drawer.

Again, there are two stories. Dann may have kept the passport for safe keeping and may have genuinely believed that she [*1174] did not have it when the police asked. Alternatively, she may have hid the passport in a place where Peña Canal likely would not have found it, along with the false minimum wage note, in order to prevent Peña Canal from leaving. Construing all inferences in favor of the verdict, we must assume the latter. A rational juror could have concluded that Dann possessed and concealed Peña Canal's passport as part of her plan to cause Peña Canal to believe that she could not leave, or that she would suffer serious harm if she did.

We conclude that there was sufficient evidence to support Dann's conviction for document servitude and AFFIRM the district court's denial of Dann's 35(a) motion on this ground as well.

C. Alien Harboring for Financial Gain

Finally, Dann challenges her conviction for alien harboring for financial gain. The district court instructed the jury that to convict Dann on this count, it had to find:

First, that Ms. Peña Canal was an alien. Second, Ms. Peña Canal had come to, entered, or remained unlawfully in the United States. Third, Ms. Dann knew [**37] or was in reckless disregard of the fact

that Ms. Peña Canal had come to, entered, or remained unlawfully in the United States. Fourth, Ms. Dann concealed, harbored, or shielded Ms. Peña Canal for the purpose of avoiding Ms. Peña Canal's detection by the immigration authorities. And fifth, Ms. Dann concealed, harbored, or shielded Ms. Peña Canal for the purpose of private financial gain.

Dann challenges the sufficiency of the evidence on the fourth element.

As a preliminary matter, the parties disagree as to whether the government had to prove that Dann harbored Peña Canal to prevent detection by immigration authorities. The government argues that according to *United States v. Acosta de Evans*, harboring does not require that the defendant actively take steps to hide the alien from immigration authorities; it is sufficient that the defendant provided the alien with shelter for financial gain. 531 F.2d 428, 430 (9th Cir. 1976).

Although the government is correct, the jury was instructed on a different standard: specifically, it was asked whether "Ms. Dann concealed, harbored, or shielded Ms. Peña Canal for the purpose of avoiding Ms. Peña Canal's detection by the immigration authorities." [**38] To convict Dann, according to this instruction, the jury had to find that she expressly shielded her from immigration authorities, not just that she gave her shelter. Dann argues, and we agree, that this Court is bound by that instruction. See Chiarella v. United States, 445 U.S. 222, 236, 100 S. Ct. 1108, 63 L. Ed. 2d 348 (1980) (HN16 Tellow) "We cannot affirm a criminal conviction on the basis of a theory not presented to the jury."); McCormick, 500 U.S. at 270 n.8.

The district court found, based on this standard, that there was sufficient evidence for a reasonable juror to conclude that Dann shielded Peña Canal for the purpose of avoiding detection by immigration authorities. Dann restricted Peña Canal's movement and forbade her from speaking to anyone outside the home. Dann even asked the manager of the apartment complex to tell the Spanish-speaking staff not to talk to Peña Canal. Dann repeatedly reminded Peña Canal of her illegal status and asked if Peña Canal was "scared" when she talked to a police officer. Whenever Peña Canal came into the house, Dann or her mother would ask if she had spoken to anyone.

Dann contends that this story is more consistent with

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someone who did not want [*1175] her good employee to be poached. That interpretation [**39] is plausible, but it is not the only one. The same evidence suggests that Dann was harboring Peña Canal from immigration authorities. And that inference is more plausible given the fact that Dann, herself, was implicated in the visa fraud.

We conclude therefore that there was sufficient evidence to support Dann's conviction for alien harboring for financial gain, and AFFIRM the district court's denial of Dann's <u>Rule 35(a)</u> motion on this final claim.

SENTENCING

In addition to challenging her conviction, Dann challenges the district court's sentencing guideline calculation and the restitution order that required her to sign over to the victim any payments made by her exhusband toward accrued child support.

I. Standard of Review

HN17 This Court reviews "the district court's interpretation of the Sentencing Guidelines de novo, the district court's application of the Sentencing Guidelines to the facts of a case for abuse of discretion, and the district court's factual findings for clear error." United States v. Grissom, 525 F.3d 691, 696 (9th Cir. 2008) (internal quotation marks and citation omitted). "A restitution order is reviewed for an abuse of discretion, provided that it is within the bounds [**40] of the statutory framework. Factual findings supporting an order of restitution are reviewed for clear error. The legality of an order of restitution is reviewed de novo." United States v. Foreman, 329 F.3d 1037, 1039 (9th Cir. 2003) (internal quotation marks and citations omitted).

II. Discussion

A. Guidelines Enhancements

The district court accepted the Guidelines calculation in Dann's Pre-Sentence Report ("PSR"), which calculated Dann's offense at a base level of 27, her criminal history as Category I, with the resulting Guidelines prison range of 70 to 87 months. The probation officer recommended, and the court agreed, to a prison term of 60 months under 18 U.S.C. § 3553, based on her behavioral and

mental health issues.⁶ The district court did not comment on the three contested enhancements to which the defendant objected at sentencing.

Dann argues on appeal that the district court erred in applying the following Guidelines enhancements to her sentence: for visa fraud, a four-level enhancement for committing visa fraud with reason to believe [**41] that the visa would be used to facilitate a felony; and for forced labor, a three-level enhancement for holding a victim in document servitude for over a year and a two-level enhancement for committing a felony (visa fraud) in connection with forced labor. We consider each in turn.

1. Visa Fraud Enhancement

HN18 Visa fraud falls under § 2L2.1 of the U.S. Sentencing Guidelines Manual, which governs "Trafficking in a Document Relating to Naturalization, Citizenship, or Legal Resident Status, or a United States Passport; False Statement in Respect to the Citizenship or Immigration Status of Another[.]" The base offense level under this Guideline is eleven and includes an enhancement of four levels "[i]f the defendant knew, believed, or had reason to believe that a passport or visa was to be used [*1176] to facilitate the commission of a felony offense, other than an offense involving violation of the immigration laws." U.S.S.G. § 2L2.1(b)(3). In the PSR, the probation officer reasoned that "the defendant had reason to believe that the visa would facilitate her conduct that rose to a felony, unlawful conduct regarding documents in furtherance of servitude." Dann argues that the trial court erred in imposing [**42] this enhancement because the crime of document servitude — identified by the probation officer is "an offense involving violation of the immigration laws" and is thus excepted by the clear language of the Guidelines.

We need not reach this argument. Dann's base offense level of 27 was driven by the forced labor offense and not visa fraud. An enhancement on visa fraud would not affect the Guideline range, and therefore any error would be harmless. Cf. United States v. Munoz-

⁶ Notably, on appeal Dann does not challenge the reasonableness of this sentence of 60 months. She challenges only the Guidelines calculation.

⁷ Indeed, it is not clear that the trial court even applied this enhancement. During the sentencing hearing, the trial judge said, "Your objection had to do with the visa count and

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Camarena, 631 F.3d 1028 (9th Cir. 2011).

2. Forced Labor Enhancements

Next, Dann challenges the Guideline enhancements to her base offense level on the forced labor conviction.

HN19 Sentencing for forced labor is governed by \$2H4.1 of the U.S. Sentencing Guidelines Manual, for "Peonage, Involuntary Servitude, Slave Trade, and Child Soldiers." The [**43] base level is 22. The offense may be subject to a three-level enhancement "[i]f any victim was held in a condition of peonage or involuntary servitude for [] more than one year," U.S.S.G. §2H4.1(b)(3),8 and an additional two-level enhancement "[i]f any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense," id. §2H4.1(b)(4). Here, the district court applied both of these enhancements over Dann's objections.

HN21[This Court reviews a district court's factual findings in support of a sentencing enhancement for clear error. <u>United States v. Rivera-Alonzo, 584 F.3d 829, 836 (9th Cir. 2009)</u> (citation omitted). "Reversal for clear error requires a definite and firm conviction that the district court made a mistake." <u>Rodriguez v. United States, 542 F.3d 704, 711 (9th Cir. 2008)</u> (internal quotation marks and citation omitted).

a. More than one year

Dann argues that the evidence before the district court failed to show that she had held Peña Canal in forced labor for more than one year, or from at least April [**44] 15, 2007 until her escape on April 16, 2008. She contends that the evidence supported forced labor for a much shorter period. The government's closing argument focused on the beginning of 2008 when Dann's conduct was at its worst. And in fact, the jury asked whether the charge of forced labor had to apply to the entire duration of Peña Canal's service. The question may suggest that the jury believed that Peña

whether the visa offense was in furtherance of another immigration offense, and that would appear to be a moot point because the visa offense isn't the one that's driving the quideline calculation."

⁸ <u>HN20</u> Application Note 1 defines "peonage or involuntary servitude" as including forced labor. <u>U.S.S.G. § 2H4.1 cmt.</u> <u>n.1</u>.

Canal was not subject to forced labor for the entire time that she resided with Dann.

To be sure, the government's evidence indicated that the worst of Dann's bad behavior occurred in or after January 2008. It was at that time that Dann told Peña Canal that she owed \$15,000. Thereafter, Dann became increasingly controlling and abusive, ultimately physically accosting [*1177] Peña Canal. Dann then forced Peña Canal to sign the "agreement" stating that she had been paid minimum wage.

Nevertheless, there was sufficient evidence for the trial judge to find by a preponderance of the evidence that Peña Canal was subject to forced labor prior to April 2007. She testified that Dann began to restrict her movement by January of 2007 and forbade her from leaving the apartment without her permission. [**45] She told Peña Canal not to "talk to anybody, not to reveal anything about us, don't tell anybody anything." Dann even told the property manager of the apartment complex to order Spanish-speaking personnel not to talk with Peña Canal.

Sometime in the winter of 2007, Dann also began restricting Peña Canal's food intake, forbidding her from eating fruit and drinking tea without permission and eventually weighing the meat and counting the eggs and bread. It was in February of 2007 that Dann told Peña Canal:

You shouldn't — you shouldn't think that I'm treating you like a slave, you shouldn't think that I'm treating you like a slave. I'm going to pay you. I don't want for you to leave me because I don't know what would happen to my children. Where would I keep them? The government would take them from me.

The district court could have reasonably concluded that Dann already knew the implications of her conduct with Peña Canal? that she was in fact treating her like a slave. By April of 2007, Peña Canal had already foregone eight months in unpaid wages that she risked losing if she were to leave.

We conclude that the district court did not clearly err when it found that Peña Canal had been held [**46] in forced labor for over one year and therefore AFFIRM the district court's Guideline enhancement.

b. Felony in connection with forced labor

Finally, Dann challenges the sentencing enhancement for committing another felony "during the commission of, or in connection with" forced labor under § 2H4.1(b)(4)

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of the U.S. Sentencing Guidelines Manual. The district court adopted the PSR, which suggested that Dann committed the felony of visa fraud in connection with the forced labor. Dann argues that at the time that she committed visa fraud, she had no intention of committing forced labor. These crimes, she argues, are entirely unrelated.

HN22 Section 2H4.1(b)(4) of the U.S. Sentencing Guidelines Manual provides in full:

If any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense, increase to the greater of:

(A) 2 plus the offense level as determined above, or (B) 2 plus the offense guideline applicable to that other offense, but in no event greater than level 43.

HN23 The first step in our analysis is to determine what it means to commit a crime "in connection with" forced labor under § 2H4.1(b)(4). This is a matter of first impression, [**47] as the commentary in this section does not define the term and no court has interpreted the language of this enhancement.

There is, however, an analogous provision in the offense guideline for unlawful possession of a firearm, *U.S.S.G.* § 2K2.1(b)(6):

If the defendant used or possessed any firearm or ammunition in connection with another felony offense; or possessed or transferred any firearm or ammunition with knowledge, intent, or [*1178] reason to believe that it would be used or possessed in connection with another felony offense, increase by 4 levels.

(emphasis added). The commentary of § 2K2.1(b)(6) states that possession of a firearm "in connection with" another felony applies "if the firearm or ammunition facilitated, or had the potential of facilitating, another felony offense or another offense, respectively." U.S.S.G. § 2K2.1 cmt. 14.

Clearly, the drafters must be held to define terms consistently throughout the Guidelines. Thus "in connection with" must mean *facilitation*. In the forced labor context, a felony is committed "in connection with" forced labor where that crime facilitates or has the potential of facilitating forced labor — or conversely where forced labor facilitates or [**48] has the potential of facilitating another felony offense. In this case, it is clear that the visa fraud facilitated the forced labor.

Indeed, as we have explained, Dann used Peña Canal's illegal immigration status to intimidate her, to cause her to fear deportation or to fear the risk of leaving without documentation. This evidence is sufficient to show that Dann committed forced labor in connection with visa fraud.

Dann, however, suggests that according to our holding in United States v. Jimison, "in connection with" requires an additional element of intent. 493 F.3d 1148, 1149 (9th Cir. 2007). She argues that the enhancement applies only where the defendant commits the first felony (either forced labor or the other crime) with the intent to commit the other. This argument is unavailing. In Jimison, HN24 1 we interpreted the second half of § 2K2.1(b)(6)— the enhancement that applies where a defendant "possessed or transferred any firearm or ammunition with knowledge, intent, or reason to believe that it would be used or possessed in connection with another felony offense." U.S.S.G. § 2K2.1(b)(6). We held that, to prove the application of this enhancement, the government must provide sufficient [**49] evidence that when the defendant came into possession of the firearm, he had a "firm intent" to use it to commit a felony. Jimison, 493 F.3d at 1149. The intent requirement was drawn directly from the language of the enhancement (requiring "knowledge, intent, or reason to believe"). There is no comparable intent language in the forced labor Guideline under U.S.S.G. § 2K2.1, and we cannot read intent into the provision.

We conclude therefore that a felony is committed "in connection with" forced labor where it facilitates or is facilitated by the offense of forced labor. And because in this case visa fraud facilitated Dann's commission of forced labor, the district court's Guideline enhancement is AFFIRMED.

B. Restitution Order

Finally, we turn to the district court's restitution order. At sentencing, the Court ordered Dann to pay \$123,740.34 in restitution and required that "any payments made by [Dann's exhusband] toward back child support that he owes shall be signed over to the victim as payment towards restitution." Dann filed a motion under <u>Federal Rule of Criminal Procedure 35(a)</u> to correct the sentence on the grounds that the district court erred when it ordered accrued child support [**50] to be paid to Peña Canal. The district court denied the <u>Rule 35(a)</u>

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motion.9

[*1179] On appeal, Dann argues that the district court erred by assigning a debt that did not belong to Dann but rather to her minor children, who are now sixteen, ten, and ten years old respectively. HN25[*] This Court reviews legal issues regarding a restitution order de novo. Foreman, 329 F.3d at 1039.

HN26 The Mandatory Victims Restitution Act requires that a district court consider three factors before ordering restitution: "(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled; (B) projected earnings and other income of the defendant; and (C) any financial obligations of the defendant; including obligations to dependents." 18 U.S.C. § 3664(f)(2)(A)-(C). Any restitution order under this section may be enforced only as against [**52] property that is the defendant's own according to the relevant state law. See, e.g., United States v. Berger, 574 F.3d 1202, 1205

⁹ The district court held in relevant part:

Although no authority directly addresses the issue presented in this motion, case law appears to support the view that child support in the form of arrearages is a debt owed to the children if the children stand to benefit from the payments. The debt is owed to the custodial parent when the children will not benefit from the payment of the arrearages.

Here, Defendant will be incarcerated for a period of years. Child support arrearages paid to her will not benefit her children during her period of incarceration. Accordingly, the Court will not modify its restitution order at this time. If child support arrearages are received by Defendant at a time when she has custody of the children and needs the arrearages to support them, she may move for modification of the restitution order, setting out her financial circumstances and how the money will be used for the benefit of her children. Similarly, if Defendant receives arrearages at a time when someone other than herself or [defendant's ex-husband] has custody of the children, and the money is needed to support the children, [**51] she can move to modify the restitution order so that she is allowed to sign over the arrearages to the guardian rather than to the victim. During the time these child support arrearages were accruing, Defendant and her children were receiving the benefit of unpaid childcare services from the victim. It is equitable that these arrearages be paid over, although belatedly, to the victim.

(9th Cir. 2009); In re Ramirez, 795 F.2d 1494, 1497 (9th Cir. 1986) ("The determination of child support rights is a matter of state statutory and common law."), superseded by statute as recognized in In re Leibowitz, 217 F.3d 799, 800 (9th Cir. 2000).

The question before the Court is whether child support arrearages belong to Dann such that they may be assigned to the victim by a restitution order, or whether the arrearage actually belongs to her children. This is a matter of first impression.

HN27 As a general rule, a parent's obligation to pay child support runs to *the child*, rather than to the other parent, and "the parent, to whom such support is paid, is but a mere conduit for the disbursement of that support."

Williams v. Williams, 8 Cal. App. 3d 636, 640, 87 Cal. Rptr. 754 (1970). Indeed, the equities between the parents do not alter the child support obligation. Comer, 14 Cal. 4th 504, 516, 59 Cal. Rptr. 2d 155, 927 P.2d 265 (1996).

We acknowledge California authority recognizing that when a custodial parent has expended her own resources, she may recover the accrued child support for her own benefit, and that [**53] that right of reimbursement may be assigned in certain circumstances. See, e.g., In re Marriage of Utigard, 126 Cal. App. 3d 133, 141-42, 178 Cal. Rptr. 546 (1981)); Cal. Welf. & Inst. Code § 11477(a) (requiring the assignment of child support arrearages to the state where the state has dispersed cash assistance to the child).

HN28 1 The California Supreme Court holdings in In re Marriage of Damico and Comer, however, suggest that even the assignable right of reimbursement to the custodial parent is superceded if reimbursement is sought when the children are minors. In re Marriage of Damico, 7 Cal. 4th 673, 29 Cal. Rptr. 2d 787, 872 P.2d 126 (1994); Comer, 14 Cal. 4th at 516 [*1180] . For example, the Damico court held that a custodial parent is estopped from bringing a claim for accrued child support if she concealed the children from the noncustodial parent when the children were minors. Damico, 7 Cal. 4th at 684-85. In Comer, however, this holding was limited to cases where the custodial parent brings a suit after the children have reached majority. 14 Cal. 4th at 516. A custodial parent may sue for accrued child support even if she previously concealed the child, so long as the child is not yet an adult. Id. Comer thus seems to suggest that accrued [**54] payments belong to the child until adulthood.

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The Comer court explained that

[t]his distinction [regarding the child's age] is a significant one, because, in contrast to most adults, children (particularly those in their early years) in fairness cannot be expected to raise themselves and pursue an education without the financial support of responsible adults . . . The child's need for sustenance must be the paramount consideration.

Id. at 516 (quotation marks and citation omitted). If child support has not been paid for a period of time, it is likely that the child's needs were met at only a minimal level. *Id.* at 517-18. Thus, a child may have accrued needs, including educational expenses or cultural opportunities, that may be met by an accrued child support payment, and these needs trump the custodial parent's entitlement to reimbursement.

that so long as the children have not reached majority, a custodial parent remains the "conduit" for child support — even accrued child support. We therefore conclude that under California law, a creditor (in this case a crime victim with a restitution order) is not entitled to accrued child support payments owed [**55] to a custodial parent of children who have not yet reached the age of majority.

In re Estate of Spirtos, 443 F.3d 1172, 1177 n.4 (9th Cir. 2006), is not to the contrary. In a footnote, this Court noted that HN30["[u]nder California law, 'the custodial parent, not the child, has the beneficial interest in collecting arrearages in child support." Id. (quoting Cnty. of Shasta v. Smith, 38 Cal. App. 4th 329, 335, 45 Cal. Rptr. 2d 52 (1995) and citing In re Marriage of Lackey, 143 Cal. App. 3d 698, 706, 191 Cal. Rptr. 309 (1983) and Utigard, 126 Cal. App. 3d at 143). Spirtos, Shasta and Lackey cite Utigard for the proposition that a child is not the real party of interest in accrued child support. Spirtos, 443 F.3d at 1177 n.4; Shasta, 38 Cal. App. 4th at 335; Lackey, 143 Cal. App. 3d at 706.

Utigard, however, involved adult children's interest in collecting child support arrearages. 126 Cal. App. 3d at 137 ("Mary Lou . . . and four of her adult children appeal from the judgment.") (emphasis added). In Utigard, the court addressed a property dispute after a divorce. The plaintiff's ex-husband conveyed their marital home to his new wife in an attempt to avoid a writ of execution for then accrued child support. When the plaintiff eventually [**56] filed an action under the Uniform Fraudulent Conveyance Act five years later, the trial court found

that the statute of limitations had run. Because her children — who were minors at the time of the conveyance — were not barred by the statute of limitations, she attempted to have the writ of execution issued in their names. In a very narrow ruling, the *Utigard* court found that the *HN31*[] now adult children had no interest in the [*1181] accrued child support. *Id.* at 143.

The *Utigard* court noted that in this case "no issue [was] tendered concerning the present or future needs of the children, nor any issue concerning the relation of the unpaid support to the children's needs." *126 Cal. App.* 3d at 139. They declined to reach the "question under what conditions the children might be deemed the beneficiaries of arrearages in child support. . . . Similarly, [they did] not decide how to resolve a dispute between parent and child as to entitlement to arrearages." *Id. at 144*.

Indeed, the holding in *Utigard* seems to hinge precisely on the fact that the case did not involve minor children who needed funds. *HN32*[Throughout the case law, California courts are guided by a fundamental principle: "In any proceedings involving [**57] custody and support it is axiomatic that the court should always adopt the course that is for the best interests of the child." *Comer*, *14 Cal. 4th at 517* (internal quotation marks omitted) (quoting *Evans v. Evans*, *185 Cal. App. 2d 566*, *572*, *8 Cal. Rptr. 412* (1960)).

We have therefore concluded that HN33[1] under California law, the custodial parent is a conduit for accrued child support to meet the needs of her minor children. In the case at hand, however, the district court pointed out that Dann is not currently the custodial parent. Because Dann is incarcerated, the district court assumed that payments made to her would not benefit her children. Like a parent of a child who has reached the age of majority, the district court reasoned. Dann is entitled to accrued child support as reimbursement to her personally for the funds that she expended to care for her children while she was not receiving support. Accordingly the funds belong to Dann and not to her children; and any sums received should be paid to Peña Canal, who provided child support services during this time period.

While at first glance the district court's order seems equitable in this particular case, its implications are troubling. The district [**58] court assumed that accrued child support payments paid to Dann would not benefit Dann's children simply because Dann is

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incarcerated. By this logic, young children of incarcerated parents could lose the benefit of accrued child support payments which — as the district court recognized — the children may very well need. ¹⁰ Indeed, the children of incarcerated women are especially vulnerable. They have likely accrued needs that may be met by *any* payments of support, even late ones.

The district court erred when it assumed that these funds belonged to Dann in the first instance. As applied to these facts, <a href="https://mww.mw.email.org/mw

We should note that the district court's order in this case also raises practical challenges. [*1182] HN35 1 The single most important question in an action that involves child support in any form is the need and interest of the minor child. See In re Marriage of Lippel, 51 Cal. 3d 1160, 1172 n.4, 276 Cal. Rptr. 290, 801 P.2d 1041 (1990). State family courts or probate courts are best equipped to balance the equities and determine the best interest of children, and federal courts should not interfere by exercising authority over child support payments in a criminal proceeding. In the case at hand, for instance, the children were not represented. No guardian ad litem weighed in at the sentencing hearing in federal court when the restitution order was rendered. Although perhaps equitable in the instant case, a restitution order simply cannot redistribute child support — or accrued child support — where minor children are involved.

The district court's order directing that [**60] accrued child support payments be made directly to Peña Canal is REVERSED.

AFFIRMED IN PART, REVERSED IN PART.

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¹⁰ The court suggested that the defendant may move to modify the order when she regains custody of the children, or she could move to modify the order "so that she is allowed to sign over the arrearages" to a guardian of her children while she is incarcerated. *Dann, 2010 U.S. Dist. LEXIS 83294, 2010 WL 2891585, at *2.*

EXHIBIT N

As of: January 18, 2023 2:38 PM Z

United States v. Marcus

United States Court of Appeals for the Second Circuit
October 13, 2010, Argued; December 7, 2010, Decided
Docket No. 07-4005-cr

Reporter

628 F.3d 36 *; 2010 U.S. App. LEXIS 24895 **

UNITED STATES OF AMERICA, Appellee, -v.- GLENN MARCUS, Defendant-Appellant.

Subsequent History: As Amended January 10, 2011.

Appeal after remand at, Decision reached on appeal by <u>United States v. Marcus</u>, 2013 U.S. App. LEXIS 4137 (2d Cir. N.Y., Feb. 28, 2013)

Prior History: [**1] Appeal from a judgment of the United States District Court for the Eastern District of New York (Ross, J.), entered on September 18, 2007, convicting defendant of violating the sex trafficking and forced labor provisions of the Trafficking Victims Protection Act.

<u>United States v. Marcus, 130 S. Ct. 2159, 176 L. Ed. 2d</u> <u>1012, 2010 U.S. LEXIS 4163 (U.S., 2010)</u> <u>United States v. Marcus, 487 F. Supp. 2d 289, 2007</u> <u>U.S. Dist. LEXIS 35969 (E.D.N.Y., 2007)</u>

Disposition: AFFIRMED in part, VACATED in part, and REMANDED.

Core Terms

website, forced labor, trafficking, proceedings, convicted, sex, district court, plain error, post-enactment, public reputation, diary entry, pre-enactment, vacate, reasonable probability, inflicted, pictures, sexual

Case Summary

Procedural Posture

Defendant was convicted following a jury trial of violating the forced labor and sex trafficking provisions of the Trafficking Victims Protection Act (TVPA), <u>18</u>

<u>U.S.C.S.</u> §§ 1589, 1591. The court vacated the judgment and remanded the case on the ground that, under plain error review, the convictions violated the Ex Post Facto Clause, but the U.S. Supreme Court reversed and remanded for reconsideration under the appropriate plain error standard.

Overview

There was no reasonable probability that the jury would have acquitted defendant absent an erroneous jury instruction. First, the Government presented postenactment evidence sufficient to satisfy the elements of the forced labor statute. Specifically, defendant forced the complaining witness, through the persistent threat of serious physical harm and actual physical harm, to create and maintain a commercial website from which only defendant derived pecuniary gain. The witness testified that she worked on the website for eight to nine hours a day including while she had a full time job. She was motivated to work on the website out of fear of future physical and sexual abuse from defendant. One of the most severe punishments occurred postenactment. Second, there was no reasoned basis to differentiate between defendant's pre- and postenactment conduct. Unlike with the forced labor charge, the conduct supporting the sex trafficking charge differed materially before and after TVPA's enactment, such that there was a reasonable probability that the erroneous jury charge affected the outcome of the trial and affected the fairness, integrity or public reputation of the proceedings.

Outcome

Defendant's conviction with respect to the forced labor charge was affirmed, his conviction with respect to the sex trafficking charge was vacated, and the case was remanded to the district court for further proceedings consistent with the opinion. If the Government determined that it would not retry defendant on the sex trafficking charge, the district court was directed to reconsider defendant's sentence.

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LexisNexis® Headnotes

Criminal Law & Procedure > ... > Standards of Review > Plain Error > Burdens of Proof

HN1 ≥ Plain Error, Burdens of Proof

Fed. R. Crim. P. 52(b) permits an appellate court to recognize a plain error that affects substantial rights, even if the claim of error was not brought to the district court's attention. An appellate court will exercise its discretion to correct an error not raised at trial only where an appellant demonstrates that: (1) there is an error; (2) the error is plain, that is, the error is clear or obvious, rather than subject to reasonable dispute; (3) the error affected the appellant's substantial rights, which in the ordinary case means it affected the outcome of the district court proceedings; and (4) the error seriously affects the fairness, integrity or public reputation of judicial proceedings.

Criminal Law & Procedure > ... > Standards of Review > Plain Error > Burdens of Proof

<u>HN2</u>[基] Plain Error, Burdens of Proof

To satisfy the third requirement for a plain error under *Fed. R. Crim. P. 52*, an appellant must demonstrate that the error was prejudicial. In the ordinary case, an error is prejudicial where there is a reasonable probability that the error affected the outcome of the trial. Regarding the fourth requirement, in most circumstances, an error that does not affect the jury's verdict does not significantly impugn the fairness, integrity, or public reputation of the judicial process.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > Elements

HN3[♣] Coercion & Harassment, Elements

See 18 U.S.C.S. § 1589.

Constitutional Law > ... > Bills of Attainder & Ex Post

Facto Clause > Ex Post Facto Clause > Application & Interpretation

<u>HN4</u> **≥** Ex Post Facto Clause, Application & Interpretation

A conviction for a continuing offense straddling enactment of a statute will not run afoul of the Ex Post Facto Clause unless it was possible for the jury to convict exclusively on pre-enactment conduct.

Criminal Law & Procedure > ... > Sex Crimes > Pandering & Pimping > Elements

HN5 Pandering & Pimping, Elements

See <u>18 U.S.C.S.</u> § <u>1591(a)(1)</u>.

Criminal Law & Procedure > ... > Crimes Against Persons > Coercion & Harassment > General Overview

Governments > Legislation > Interpretation

HN6 Crimes Against Persons, Coercion & Harassment

The forced labor statute punishes anyone who knowingly provides or obtains the labor or services of a person by threats of serious harm to, or physical restraint against, that person or another person. 18 U.S.C.S. § 1589. The term "labor or services," which is not defined by the statute, is viewed in accord with its ordinary meaning. Absent ambiguity in the statutory text, only the most extraordinary showing of contrary intentions in the legislative history will justify a departure from the statutory language. Court will only look to legislative history to interpret unambiguous statutes in rare and exceptional circumstances. Moreover, they will not apply the rule of lenity to narrowly construe a statute where the applicable text is unambiguous.

Governments > Legislation > Interpretation

HN7 Legislation, Interpretation

"Labor" is defined as the expenditure of physical or mental effort especially when fatiguing, difficult, or compulsory. "Service" is defined as the performance of 628 F.3d 36, *36; 2010 U.S. App. LEXIS 24895, **1

work commanded or paid for by another.

Governments > Legislation > Vagueness

HN8 Legislation, Vagueness

One whose conduct is clearly proscribed by a statute cannot successfully challenge it for vagueness.

Counsel: HERALD PRICE FAHRINGER (Erica T. Dubno, on the brief), Fahringer & Dubno, New York, NY, for Defendant-Appellant.

PAMELA CHEN, Assistant United States Attorney, for Loretta E. Lynch, United States Attorney for the Eastern District of New York, Brooklyn, NY, for Appellee. (Peter A. Norling, Assistant United States Attorney, Benton J. Campbell, United States Attorney, Eastern District of New York, Brooklyn, NY; Grace Chung Becker, Acting Assistant Attorney General, Jessica Dunsay Silver, Tovah R. Calderon, Attorneys, Department of Justice, Civil Rights Division, Appellate Section, on the brief in the original appeal).

Judges: Before: CALABRESI, STRAUB, WESLEY, Circuit Judges.

Opinion by: WESLEY

Opinion

[*38] WESLEY, Circuit Judge:

Defendant-Appellant was convicted following a jury trial on charges of violating the forced labor and sex trafficking provisions of the Trafficking Victims Protection Act ("TVPA"), 18 U.S.C. §§ 1589, [**2] 1591. In an opinion dated August 14, 2008, this Court vacated the judgment and remanded the case on the ground that, under plain error review, Marcus's convictions violated the Ex Post Facto Clause. United States v. Marcus, 538 F.3d 97 (2d Cir. 2008) (per curiam).

The Supreme Court reversed and remanded. Noting that Marcus's contention implicated the Due Process Clause, 1 the [*39] Supreme Court held that this

¹ Marcus's claim is properly labeled a due process claim because the potential retroactive application of the TVPA to Marcus's conduct was the result of an erroneous jury

Court's standard for plain error review, as applied to Marcus's claim, was inconsistent with the Supreme Court's extant precedent. United States v. Marcus, 130 S. Ct. 2159, 2163, 176 L. Ed. 2d 1012 (2010). On remand, we must address Marcus's due process challenge to his sex trafficking and forced labor convictions under the appropriate plain error standard. For the reasons set forth below, we affirm Marcus's forced labor conviction and vacate his sex trafficking conviction. The case is remanded to the district court for proceedings consistent with this opinion.

I. [**3] BACKGROUND

The facts of this case are set forth in the district court's opinion, United States v. Marcus, 487 F. Supp. 2d 289, 292-97 (E.D.N.Y. 2007), and summarized in this Court's prior opinion, Marcus, 538 F.3d at 98-100. Because familiarity with those opinions is presumed, we recite only the facts and procedural history relevant to the issues on remand.

From October 1998 through approximately June 1999, Marcus and the complaining witness, Jodi, ² engaged in a consensual relationship that involved bondage, submission/sadism, dominance/discipline, masochism ("BDSM"). After they met on the internet, Marcus convinced Jodi to move from her home in the Midwest to Maryland, where she lived in the apartment of a woman named Joanna. Jodi, Joanna, and other women participated in various BDSM activities with Marcus. This included being considered Marcus's "slaves" and being subjected to various physical and sexual "punishments." At Marcus's direction, Joanna maintained a membership BDSM website called "Subspace," which contained pictures of Jodi and other women participating in BDSM activities and fantasy diary entries written about these activities.

By October 1999, the nature of this arrangement changed. Because Jodi refused to recruit her younger sister to become one of Marcus's "slaves," Marcus inflicted upon Jodi a "punishment" that was the most physically severe that she had experienced to date. Jodi testified that she cried throughout the incident and that

instruction rather than an act of Congress. See United States v. Marcus, 130 S. Ct. 2159, 2165, 176 L. Ed. 2d 1012 (2010).

² At trial, the district court granted [**4] the Government's motion to allow certain witnesses to testify using their first names only. Marcus, 487 F. Supp. 2d at 292 n.2.

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thereafter her relationship with Marcus became nonconsensual. According to Jodi, she began to feel "trapped" and "full of terror."

In January 2000, Marcus instructed Jodi to move to New York, where she lived with Rona, another one of Marcus's "slaves." Jodi testified that upon her move to New York, Marcus directed her to create and maintain a new commercial BDSM website called "Slavespace." Jodi indicated that she worked on the site for approximately eight to nine hours per day, updating photographs and diary entries and clicking on banner advertisements to increase revenue and enhance the site's visibility on the internet. She testified that she continued to work on the website in this manner after she obtained a full-time job in November 2000. [**5] Marcus received all revenues from the website, consisting primarily of membership fees and advertising.

Although Jodi did not want to work on the website as Marcus instructed, she did so because she feared the consequences of her refusal. Marcus created and fueled Jodi's fear by physically and sexually [*40] "punishing" her when he was unhappy with her work on the website. Punishment would occur when Jodi did not post pictures or diary entries quickly enough or when the website was not making as much money as Marcus expected. These punishments were photographed, and the pictures were posted on Slavespace. Additionally, Marcus required Jodi to write diary entries about these punishments, which, at his direction, indicated her satisfaction in receiving them.

One of the most severe punishments Marcus imposed on Jodi occurred in Rona's apartment in April 2001. Marcus tied Jodi's hands together with rope, made Jodi lie down on a coffee table, and told Jodi he was going to put a safety pin through her labia. Because she began to scream and cry, Marcus put a washcloth in Jodi's mouth and whipped her with a kitchen knife in an unsuccessful attempt to force her to stop crying. Marcus proceeded to put [**6] the safety pin through Jodi's labia and attached a padlock to it, closing her vagina. Marcus photographed this incident, and the pictures were posted on the Slavespace website. He also directed Jodi to write a diary entry about this incident for the website.

Although Jodi's relationship with Marcus had become nonconsensual, she remained with Marcus out of fear of his reaction if she left. Specifically, at one point, when Jodi told Marcus that she was unhappy and could not continue with the arrangement, Marcus threatened to

send pictures of Jodi to her family and the media.

In March 2001, Jodi told Marcus that she wanted to leave. In response, Marcus told Jodi that she had to endure one final punishment. In the basement of a Long Island residence, Marcus inflicted a severe punishment on Jodi, including banging her head against a basement ceiling beam, tying her hands and ankles to the beam, beating her and whipping her while she was hanging from the beam, drugging her with Valium, and inserting a large surgical needle through her tongue. After inflicting this beating, Marcus let Jodi off the beam, took her to a bedroom, and had sexual intercourse with her. Marcus photographed Jodi throughout [**7] the punishment and instructed her to write and post on the website a diary entry about the incident.

Jodi testified that, after this incident, she felt broken, surrounded by fear and terror, and trapped in this relationship with Marcus. She continued to live in Rona's apartment until August 2001, at which point Rona told Marcus that she no longer wanted Jodi to live with her. Jodi then moved into her own apartment, and her interactions with Marcus became less frequent and less extreme, although she remained in contact with him until 2003.

On February 9, 2007, the Government obtained a superseding indictment charging Marcus with violating the sex trafficking statute, <u>18 U.S.C. § 1591(a)(1)</u>, and the forced labor statute, <u>18 U.S.C. § 1589</u>, of the TVPA "[i]n or about and between January 1999 and October 2001." After a jury trial, Marcus was convicted on both counts. ³

Although the TVPA was not enacted until October 28, 2000, the Government presented evidence with respect to the entire period charged in the superseding indictment, and the district court did not instruct [**8] the jury with respect to the TVPA's enactment date. At trial, Marcus did not object to the jury instructions on [*41] this ground, nor did he raise the argument in his motion for a judgment of acquittal under *Rule 29 of the Federal Rules of Criminal Procedure*. Marcus's post-conviction motions for judgment of acquittal, *Fed. R. Crim. P. 29*, and for a new trial, *Fed. R. Crim. P. 33*, were denied by the district court. *See Marcus, 487 F. Supp. 2d at 313*.

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³ The indictment also charged Marcus with obscenity in violation of <u>18 U.S.C.</u> § <u>1462</u>, but the jury acquitted him of that count.

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Marcus brought a timely appeal in which he argued, in relevant part, that the TVPA was applied retroactively in his case in violation of the Ex Post Facto Clause of the United States Constitution. Because Marcus failed to raise this argument before the district court, we reviewed for plain error only.

We vacated Marcus's convictions, holding that under <u>United States v. Torres</u>, <u>901 F.2d 205 (2d Cir. 1990)</u>, on plain error review, an error implicating the Ex Post Facto Clause requires a new trial if, as was the case here, "there is any possibility, no matter how unlikely" that an uninstructed jury could have convicted the defendant based exclusively on pre-enactment conduct. <u>Marcus</u>, <u>538 F.3d at 102</u>.

Though joining in the judgment because our then [**9] precedent compelled the result, two members of the panel noted that the standard in Torres was inconsistent with Supreme Court precedent. Id. at 102-03 (Sotomayor, J., concurring). Looking to *United States* v. Cotton, 535 U.S. 625, 122 S. Ct. 1781, 152 L. Ed. 2d 860 (2002), and Johnson v. United States, 520 U.S. 461, 117 S. Ct. 1544, 137 L. Ed. 2d 718 (1997), the concurrence concluded that "where there is no reasonable possibility that an error not objected to at trial had an effect on the judgment, the Supreme Court counsels us against exercising our discretion to notice that error." Marcus, 538 F.3d at 104. Applying this principle to the context of an ex post facto violation under a plain error standard of review, the concurrence reasoned:

[W]here the evidence is "overwhelming" "essentially uncontroverted" that the defendant's relevant pre- and post-enactment conduct is materially indistinguishable, such that a reasonable jury would not have convicted the defendant based solely on pre-enactment conduct, a retrial is unwarranted. In other words, the defendant must meet the low threshold of offering a plausible explanation as to how relevant pre- and postenactment conduct differed, thereby demonstrating a reasonable possibility that the jury might have [**10] convicted him or her based exclusively on pre-enactment conduct. When this requirement is not met, the error does not seriously affect the fairness, integrity, or public reputation of the judicial proceedings.

ld.

The concurrence concluded that Marcus's sex trafficking

conviction should be vacated, but his forced labor conviction affirmed, because with respect to the forced labor charge, Marcus offered "no plausible argument as to why the jury would have differentiated between his conduct before and after the enactment of the statute." *Id. at 106*.

The Supreme Court reversed and remanded, holding that the "any possibility, however remote" standard was inconsistent with its plain error review precedents. <u>Marcus, 130 S. Ct. at 2164</u>. On remand, we must decide whether the error in this case affected Marcus's substantial rights and the fairness, integrity or public reputation of his judicial proceeding.

II. DISCUSSION

HN1 Federal Rule of Criminal Procedure 52(b) permits an appellate court to recognize a "plain error that affects substantial rights," even if the claim of error [*42] was not brought to the district court's attention. Marcus, 130 S. Ct. at 2164. We will exercise our discretion to correct [**11] an error not raised at trial only where an appellant demonstrates that: (1) there is an error; (2) the error is plain, that is, the error is "clear or obvious, rather than subject to reasonable dispute;" (3) the error "affected the appellant's substantial rights, which in the ordinary case means" it "affected the outcome of the district court proceedings;" and (4) "the error seriously affect[s] the fairness, integrity or public reputation of judicial proceedings." Id. (brackets in original). Here, only the third and fourth requirements are in dispute.

HN2 To satisfy the third requirement, an appellant must demonstrate that the error was prejudicial. In the ordinary case, an error is prejudicial where there is a "reasonable probability that the error affected the outcome of the trial." *Id.* Regarding the fourth requirement, "in most circumstances, an error that does not affect the jury's verdict does not significantly impugn the fairness, integrity, or public reputation of the judicial process." *Id. at 2166* (internal quotation marks omitted). Therefore, to have impacted Marcus's substantial rights and the fairness, integrity or public reputation of the judicial proceedings, the overall effect [**12] of the due process error must have been sufficiently great such that there is a reasonable probability that the jury would not have convicted him absent the error.

Here, there is no reasonable probability that the jury would have acquitted Marcus absent the error. First, the

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Government presented post-enactment evidence sufficient to satisfy the elements of the forced labor statute. 4 From January 2000 until at least the spring of 2001. Marcus forced Jodi, through the persistent threat of serious physical harm and actual physical harm, to create and maintain a commercial BDSM website from which only Marcus derived pecuniary gain. Jodi testified that she worked on Marcus's website for eight to nine hours a day including while she had a full time job. 5 During this time period, Jodi was motivated to work on the website out of fear of future physical and sexual abuse from Marcus. One of the most severe punishments, the April 2001 coffee table incident, occurred post-enactment. Jodi testified that this punishment was due to her unsatisfactory work on the website. Based on this evidence, a [*43] jury could find that Marcus obtained Jodi's labor through threat of serious physical harm and actual [**13] physical harm after October 2000. 6

Second, we find no reasoned basis to differentiate between Marcus's pre- and post-enactment conduct,

and we find no reason to presume that the jury did so. Although the Government presented evidence that Jodi wrote diary entries about her BDSM activities for Marcus's old BDSM website dating back to 1999, the substantial evidence of forced labor begins in January 2000, when Marcus directed Jodi to move from Maryland to New York and instructed her to create and manage his new commercial BDSM website. From January 2000, continuing through the effective date of the TVPA in October 2000, and into April 2001, Marcus's conduct supporting the forced labor conviction is essentially the same. [**15] If anything, Marcus's use of force against Jodi *increased* post-enactment, with two of the most severely violent incidents occurring in March and April of 2001. Marcus offers no explanation for how his pre-enactment conduct differed from his postenactment conduct in a manner that would lead us to conclude that there is a reasonable probability that the jury would not have convicted him absent the due process error. 7

For substantially similar reasons, we reject Marcus's additional argument that he was prejudiced, not because of the potential retroactive application of the TVPA to his pre-enactment conduct, but because the proceedings were "swamped by highly prejudicial evidence — spanning 22 months - that, although charged as criminal, violated no law at the time." The Government presented substantial evidence of Marcus's post-enactment conduct, and nothing about the nature or quantity of the evidence of Marcus's pre-enactment conduct leads us to conclude that it is reasonably

⁷On appeal, the parties originally disputed whether forced labor and sex trafficking constituted continuing offenses. HN4[1 "A conviction for a continuing offense straddling enactment of a statute will not run afoul of the Ex Post Facto clause unless it was possible for the jury . . . to convict exclusively on pre-enactment conduct." United States v. Monaco, 194 F.3d 381, 386 (2d Cir. 1999) (internal quotation marks omitted). Prior to the Supreme Court's opinion in this case, under Torres, the same analysis applied under plain error review. See Torres, 901 F.2d at 229. In our prior opinion, we did not decide whether violations of the forced labor and sex trafficking statutes constitute continuing offenses because, in any event, it was possible that Marcus had been convicted solely [**16] on the basis of pre-enactment conduct and thus a new trial was necessary. Marcus, 538 F.3d at 101. Although we now affirm Marcus's forced labor conviction, we again have no need to decide whether forced labor constitutes a continuing offense. Even assuming it does not, a new trial is not warranted because neither the third nor fourth requirements of the plain error standard are satisfied.

⁴ 18 U.S.C. § 1589 provided, in relevant part: HN3 TWhoever knowingly provides or obtains the labor or services of a person . . . by threats of serious harm to, or physical restraint against, that person or another person; . . . by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or . . . by means of the abuse or threatened abuse of law or the legal process, shall be [punished]." 18 U.S.C. § 1589 (2000). We note that the language of 18 U.S.C. § 1589 was amended in 08. We apply the version of the statute in effect at the time of Marcus's conduct.

⁵ Marcus argues that the fact that Jodi acquired a full time job in November 2000 undermines the credibility of her testimony that she worked on the website eight to nine hours a day postenactment. He also points out that Rona testified that Jodi did not work on the website after she acquired the full time job. These arguments, however, do not compel the conclusion that the jury believed that Jodi provided website related services to Marcus pre-enactment [**14] rather than post-enactment. First, it is not impossible for Jodi to have worked an eight-hour day, commuted from Queens, NY, and still worked eight hours on the website. Second, it is undisputed that Jodi was required, under threat of punishment, to write diary entries for Slavespace expressing her enjoyment of the March and April 2001 punishments.

⁶ This conclusion likewise disposes of Marcus's argument that the evidence of his post-enactment conduct is insufficient to sustain the forced labor conviction.

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probable that the jury would have acquitted Marcus but for the evidence of Marcus's pre-enactment conduct.

Therefore, because the erroneous jury instruction neither prejudiced Marcus nor called into question the "fairness, integrity or public [**17] reputation of the judicial system," we will not set aside Marcus's forced labor conviction. See Marcus, 130 S. Ct. at 2164.

By contrast, with regard to Marcus's sex trafficking conviction, the Government concedes that the erroneous jury instruction constituted plain error. 8 The [*44] Government produced evidence that Marcus knowingly recruited and enticed Jodi in 1998; transported Jodi from Maryland to New York in early 2000; and harbored her from 1999 until 2001. Unlike with the forced labor charge, the conduct supporting the sex trafficking charge differed materially before and after October 2000, such that there is a reasonable probability that the erroneous jury charge affected the outcome of the trial and affected the fairness, integrity or public reputation of the proceedings. Consequently, we again vacate Marcus's sex trafficking conviction and remand the case for retrial on this charge. 9 What remains are Marcus's other challenges to his forced labor conviction.

Marcus argues that <u>18 U.S.C.</u> § <u>1589</u> does not apply to his conduct. He contends that Jodi and he engaged in an "intimate domestic relationship" based upon a shared BDSM lifestyle. Further, he contends that the forced labor statute's phrase "labor and services" [**19] is

⁸ 18 U.S.C. § 1591(a)(1) provides, in relevant part: HN5 T "Whoever knowingly . . . in or affecting interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States, recruits, entices, [**18] harbors, transports, provides, or obtains by any means a person . . . knowing that force, fraud, or coercion . . . will be used to cause the person to engage in a commercial sex act . . . shall be punished " 18 U.S.C. § 1591(a)(1).

⁹ In our prior opinion we held that "for substantially the same reasons set forth in the District Court's opinion, . . . the totality of the evidence presented at trial was sufficient to support the convictions." *Marcus*, *538 F.3d at 102 n.6*. With respect to Marcus's sex trafficking conviction, we reaffirm that holding today. We need not decide whether only the post-enactment evidence was sufficient to sustain the sex trafficking conviction because, even assuming it was not, double jeopardy would not bar retrial. *Id.* (citing *United States v. Mandel*, *591 F.2d* 1347, 1371-74, rev'd en banc on other grounds, 602 F.2d 653 (4th Cir. 1979); *United States v. Harmon*, 632 F.2d 812, 814 (9th Cir. 1980) (per curiam)).

ambiguous as applied to his conduct, and that the district court erred in refusing to apply the rule of lenity to narrowly construe the statute in his favor. We agree with the district court's well-reasoned opinion that these arguments are without merit.

In relevant part, HN6 the forced labor statute punishes anyone who "knowingly provides or obtains the labor or services of a person . . . by threats of serious harm to, or physical restraint against, that person or another person." 18 U.S.C. § 1589 (2000). The term "labor or services," which is not defined by the statute, is viewed in accord with its ordinary meaning. See Smith v. United States, 508 U.S. 223, 228, 113 S. Ct. 2050, 124 L. Ed. 2d 138 (1993); Harris v. Sullivan, 968 F.2d 263, 265 (2d Cir. 1992). Absent ambiguity in the statutory text, "[o]nly the most extraordinary showing of contrary intentions in the legislative history will justify a departure from [the statutory] language." United States v. Albertini, 472 U.S. 675, 680, 105 S. Ct. 2897, 86 L. Ed. 2d 536 (1985) (internal quotation marks omitted). We will only look to legislative history to interpret unambiguous statutes in "rare and exceptional circumstances." Garcia v. United States, 469 U.S. 70, 75, 105 S. Ct. 479, 83 L. Ed. 2d 472 (1984). Moreover, we will not apply [**20] the rule of lenity to narrowly construe a statute where the applicable text is unambiguous. See United States v. Giordano, 442 F.3d 30, 40 (2d Cir. 2006) (citing Salinas v. United States, 522 U.S. 52, 66, 118 S. Ct. 469, 139 L. Ed. 2d 352 (1997)).

The parties do not dispute that the ordinary meaning of the phrase "labor or services" ¹⁰ encompasses Jodi's various **[*45]** contributions to the Slavespace website from which only Marcus derived pecuniary gain. Marcus, however, contends that Jodi's work on the Slavespace website was volunteered to Marcus in a manner similar to unpaid domestic chores performed by any cohabitating couple, and the "punishments" Marcus inflicted upon Jodi are inseparable from the BDSM activities that were a long standing part of their intimate relationship. Marcus argues that by applying the statute's plain meaning to this relationship, the forced

¹⁰ Webster's Dictionary HNT defines "labor" as the "expenditure [**21] of physical or mental effort especially when fatiguing, difficult, or compulsory." Merriam-Webster's Third New International Dictionary Unabridged (2002) available at http://www.mwu.eb.com/mwu. "Service" is defined as "the performance of work commanded or paid for by another." Id.

628 F.3d 36, *45; 2010 U.S. App. LEXIS 24895, **21

labor statute is susceptible to application in the context of "purely domestic chores" performed, for example, at the behest of an abusive spouse. Marcus presses that this is an incorrect application of a statute that was intended to proscribe international trafficking in slave labor and prostitution.

Marcus's argument is unpersuasive. The jury was properly instructed that consensual BDSM activities alone could not constitute the basis for a conviction under the sex trafficking charge, 11 and there is no reason to believe that the jury did not understand this instruction to be equally true with respect to the forced labor charge. The jury rejected Marcus's view of the affair, namely, that Jodi's work on the website and punishments relating thereto were all part of her longtime intimate relationship with Marcus and their broad participation in BDSM. Moreover, the evidence fully supports the Government's theory that, over time, the violence Marcus inflicted upon Jodi nonconsensual, the punishments became more severe, and that Jodi would not have performed services for website had she not feared Marcus's noncompliance would result in future physical and sexual abuse. The fact that Jodi's enslavement [**22] arose from her initial participation in consensual BDSM activities does not require a contrary conclusion.

Therefore, we conclude that the plain meaning of the forced labor statute unambiguously applies to Marcus's conduct. Thus, we do not address the statute's legislative history. See Giordano, 442 F.3d at 40. ¹²

¹¹ With respect to the sex trafficking charge, the court instructed:

Throughout the trial, you have heard evidence about sexual practices called Bondage, Discipline/Domination, Submission/Sadism, Masochism, or "BDSM," that may involve actual physical restraint, such as being tied up or placed in a cage. The mere fact that a person was physically restrained during the course of such acts does not necessarily mean that the statute was violated. For example, if the physical restraint was consensual, then it would not constitute a violation of the statute.

It is for you to decide, based on a careful consideration of all the facts and surrounding circumstances, whether the acts of physical restraint violated the statute.

Trial Tr. 1261: 3-18.

¹² Because we conclude that the forced labor statute unambiguously applies to Marcus's conduct, we reject his asapplied vagueness argument. *HN8* [] "[O]ne [**23] whose

For the reasons discussed above, we affirm Marcus's conviction with respect to [*46] 18 U.S.C. § 1589, vacate his conviction with respect to 18 U.S.C. § 1591, and remand the case to the district court for further proceedings consistent with this opinion. Should the Government determine that it will not retry Marcus on the sex trafficking charge, we direct the district court to reconsider Marcus's [**24] sentence. At this time, review of the reasonableness of his sentence is premature.

III. CONCLUSION

The district court's September 18, 2007 judgment of conviction is hereby AFFIRMED in part and VACATED in part. The case is REMANDED to the district court for proceedings consistent with this opinion.

End of Document

conduct is clearly proscribed by the statute cannot successfully challenge it for vagueness." <u>United States v. Nadi, 996 F.2d 548, 550 (2d Cir. 1993)</u>. In any event, this argument was raised for the first time on appeal, and Marcus does not contend that the district court committed plain error by not addressing it. Consequently it is deemed waived. See *United States v. Feliciano, 223 F.3d 102, 125 (2d Cir. 2000)*.

Marcus also argues (1) that the district court's decision permitting two of the Government's witnesses to testify using only their first names and not to disclose their addresses or employment violated his due process rights; and (2) that the district court improperly denied Marcus's motion to suppress certain evidence. We have considered both arguments and find them to be without merit.

EXHIBIT O

In the Matter Of:

D.C. AND R.M. vs.

NELSON MARTIN, et al.

Ethan Weaver

October 18, 2022

HKW, LLC 764 Corporate Circle, Suite 200 New Cumberland, PA 17070 717.214.1182 Schedule@hkwllc.com



IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

D.C. AND R.M.,

Plaintiffs

vs.

NELSON MARTIN D/B/A

LIBERTY RIDGE FARM, : CIVIL ACTION
LIBERTY RIDGE FARM, : NO: 5:21-CV-05070-JMG
EASTERN PENNSYLVANIA :

MENNONITE CHURCH AND

RELATED AREAS, AND MENNONITE MESSIANIC MISSION OF THE EASTERN PENNSYLVANIA MENNONITE

CHURCH,

Defendants :

DEPOSITION OF: ETHAN WEAVER

TAKEN BY: PLAINTIFFS

REPORTER: TRACY L. LLOYD, RPR

NOTARY PUBLIC

KYLAN BARRY, VIDEOGRAPHER

OCTOBER 18, 2022, 9:03 A.M. DATE:

PLACE: MARGOLIS EDELSTEIN

214 SENATE AVENUE, SUITE 402

CAMP HILL, PENNSYLVANIA

		_
1	APPEARANCES:	2
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5	By Ms. Wynkoop	
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	A
1	STIPULATIONS 4
2	It is stipulated and agreed by and between
3	counsel for the respective parties that the reading,
4	signing, sealing, and filing of the transcript is
5	waived and that all objections, except as to the
6	form of the question, are reserved to the time of
7	trial.
8	
9	THE VIDEOGRAPHER: Here begins Media
LO	Number 1 in the videotaped deposition of Ethan Weaver
L1	in matter of D.C. and R.M. v. Martin, et al. in the
L2	United States District Court for the Eastern District
L3	of Pennsylvania, case number 521-CV-05070-JMG.
L4	Today's date is October 18th, 2022, and
L5	the time on the video monitor is 9:03 a.m. The
L6	videographer today is Kylan Barry representing Planet
L7	Depos. This video deposition is taking place at 214
L8	Senate Avenue, Suite 402, Camp Hill, Pennsylvania,
L9	17011.
20	Would counsel please voice identify
21	themselves and state whom they represent.
22	MS. FRANCHI: My name is Renee Franchi.
23	I'm with the law firm of the Andreozzi and Foote, and
24	I represent the Plaintiffs in this case.
25	MS. WYNKOOP: Meghan Wynkoop, Margolis

1	Edelstein, and I represent the Defendants.
2	MS. MENDEZ: Jocelyn Mendez, Margolis
3	Edelstein, and I represent the Defendants.
4	THE VIDEOGRAPHER: The court reporter
5	today is Tracy Lloyd. Will the reporter please swear
6	in the witness.
7	
8	ETHAN WEAVER, called as a witness, being
9	affirmed, testified as follows:
10	
11	EXAMINATION
12	
13	BY MS. FRANCHI:
14	Q. All right. Good morning, Mr. Weaver.
15	A. Good morning.
16	Q. Again, my name is Renee Franchi. I'm one
17	of the attorneys for the Plaintiffs in this case. I
18	know as we talked about before, you had indicated that
19	you have a hearing problem or if there's any point at
20	any time that I you can't hear me, you don't
21	understand me or I'm talking too fast which I tend to
22	do, please don't hesitate to interrupt or tell me to
23	speak up. Sometimes I get going on a roll and don't
24	realize what I'm doing.
25	So before we get going with any

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Witness Ethan Weaver

6 questions, I feel like we can put a few things on the record that counsel and I had spoken about previously, and I think that we can probably just have these carry over into all of the depositions this week instead of rehashing. Agreeing to usual stipulations, reserving the right to recall witnesses because discovery is ongoing, and we do have a binder full of the printed discovery that has been exchanged in this matter. So instead of admitting any exhibits, I'll just be referring to pages of the discovery and the Bates stamp numbers as long as counsel is okay with all of that. I think that's probably everything. Yeah, we agree. MS. WYNKOOP: BY MS. FRANCHI: So all right. Thank you for being 0. Okay. here with us today. Before we go through with the questions in this case in the litigation involving Liberty Ridge Farm, we have some preliminary matters that we always have to go through in these depositions just to make sure you know the expectations and the rules for taking a deposition. The first thing is that if I or your attorney or if anybody asks you a question during the deposition, you'll have to give a verbal answer, not a

	7	
1	non-verbal response like uh-huh or a head nod or a	
2	head shake. This is because obviously the	
3	stenographer is here. They're typing down all of the	
4	questions, all of the answers. They can only type	
5	down verbal responses, so will you be able to give	
6	verbal responses to questions today?	
7	A. Yes.	
8	Q. All right. Thank you. Next, as I	
9	mentioned earlier, if I ask a question that you don't	
10	understand, you can't hear it properly, or if it just	
11	doesn't make sense whether it be because I worded it	
12	confusingly or any other reason, please feel free to	
13	tell me that you don't understand the question or ask	
14	me to repeat it. Can you do that?	
15	A. Yes.	
16	Q. In that same light, if you're asked a	
17	question and you answer with a verbal response, I will	
18	assume that you understood the question. Is that	
19	fair?	
20	A. Yes.	
21	Q. Okay. I expect we will be here for a few	
22	hours this morning. I know attorneys are inherently	
23	bad at estimating time. I hope we're not here longer	
24	than that.	
25	If at any point you need to take a break	

8 1 to use the restroom, get something to drink, stretch 2 your legs, anything like that, that's fine. Just let me know or let your attorney know. 3 The only restriction is that if you are asked a question, you 4 may not take a break until the question is answered. 5 Does that make sense? 6 7 Α. Yes. Okay. Now, during this deposition at 8 0. 9 some point I may or may not ask you to estimate or 10 approximate something if you do not recall something 11 specifically like a date or a time. Please do not 12 simply guess or take a stab in the dark. 13 If you think you can give a fair estimate 14 or a fair approximation, please do so. For example, 15 if I ask you a question where you know the event 16 happened in a certain time frame, for example, between 17 two specific years like 2005 and 2008, just for 18 example, it's fair to say that you don't remember 19 exactly when the event occurred, but remember that it 20 happened between those two years, and that's 21 completely fine. But if you simply don't know or do 22 not remember something at all or you're uncertain, 23 please say so. Is that fair? 24 Α. Yes. Now, the last and most important 25 Q. Okav.

	9
1	thing today is that all we ask is that you tell the
2	truth. Is there anything that would prevent you from
3	being able to fully testify to the truth today?
4	A. No.
5	Q. So first I will be starting with just
6	some general background questions so I can get to know
7	you. Obviously I've never spoken with you before, and
8	then I will get into some more specifics about the
9	case. I'm sure that your attorney will likely have
10	some questions when I'm finished. Maybe not. Maybe
11	she will. Do you have any questions for me before we
12	start?
13	A. No.
14	Q. Okay. So to begin, what, if anything,
15	did you do in preparation for your deposition today
16	other than speaking with your lawyer?
17	A. Nothing except pray.
18	Q. Okay. Did you review any documents in
19	preparation?
20	A. No.
21	Q. Okay. So here are the background
22	questions, and then, again, we'll get into some more
23	specifics. Sir, what is your full name?
24	A. Ethan Weaver.
25	Q. And can you spell your last name?

1	Α.	W-e-a-v-e-r.
2	Q.	And how old are you?
3	A.	40 68.
4	Q.	And what is your date of birth?
5	A.	8/5/54.
6	Q.	And where were you born?
7	A.	Harrisburg.
8	Q.	Oh, local. Where do you live now?
9	A.	Newville.
10	Q.	And that's in Pennsylvania?
11	A.	Yes.
12	Q.	Have you lived in Pennsylvania your whole
13	life?	nave you lived in rembylvania your whole
14	A.	Whole life.
15	Q.	Okay. What do you do for a job?
16	A.	I'm a truck driver.
17		Interstate?
18	Q.	No.
	A.	
19	Q.	Okay. Who do you work for?
20	Α.	A.B. Martin.
21	Q.	How long have you worked there?
22	Α.	Nine or ten years.
23	Q.	Where did you work before that?
24	Α.	Farm, on the farm.
25	Q.	Okay.

1	Α.	I had a farm.
2	Q.	Where at?
3	А.	Newville.
4	Q.	Okay. What was the name of the farm?
5	Α.	Wildwood Acres.
6	Q.	Okay. Was it a family farm?
7	Α.	Yes.
8	Q.	Okay. Did you own it or family members
9	own it?	
10	Α.	My daughter and her husband own it
11	presently.	
12	Q.	Okay. Now, sir, what's your education
13	level?	
14	Α.	High school.
15	Q.	And did you attend, I guess, a
16	traditional	high school or did you attend a high
17	school withi	n your community?
18	Α.	The community, Big Spring High School,
19	Newville, Pe	nnsylvania.
20	Q.	And can you read, write, and understand
21	English?	
22	Α.	Absolutely.
23	Q.	And have you ever been charged with a
24	crime?	
25	Α.	No.

1	Q.	And I saw that you had come in with your
2	wife today,	so you're married?
3	A.	Yes.
4	Q.	And what's your wife's name?
5	Α.	Ruby.
6	Q.	Same last name?
7	Α.	Yes.
8	Q.	And you live together?
9	Α.	Yes.
10	Q.	Do you have any children?
11	Α.	Two.
12	Q.	What are their names?
13	Α.	Sharon and Joy.
14	Q.	And how old are they?
15	Α.	Sharon was born January 8, '78, and Joy
16	was born June	e 2, '81.
17	Q.	And they don't live with you?
18	Α.	No.
19	Q.	Okay. So I guess this probably goes
20	without sayin	ng, but you were raised within the
21	Mennonite fa:	ith?
22	Α.	Yes.
23	Q.	Were you always a member of the Eastern
24	Pennsylvania	Mennonite Church?
25	Α.	Yes. No. I was baptized in Lancaster

	12
1	Conference and then transferred to the Eastern Church
2	when I was 16 I think.
3	Q. Okay. Was that your family's choice?
4	Was that your personal choice?
5	A. My personal choice.
6	Q. Okay. Now, just generally, again, I'm
7	not I'm only as familiar with the Eastern
8	Pennsylvania Church as I have been within this case,
9	but tell me a little bit about just what the Eastern
10	Pennsylvania Mennonite faith means to you. Like, for
11	example, kind of what are the pillars of the faith?
12	Just what does it mean to you?
13	A. Everything. It's a biblical based church
14	that we try to specifically and deliberately follow
15	the Bible.
L 6	Q. Okay. What are some of the more
L 7	important factors or rules to live by within your
18	faith?
19	A. Honesty, integrity, uprightness,
20	Godliness, discipleship.
21	Q. What about volunteerism? Is that
22	important?
23	A. Oh, yes.
24	Q. And what does that mean to you?
25	A. That I give my time to help others.

	1.4
1	Q. And within your faith and within your
2	community, and I apologize. If there's another way
3	you would like for me to reference it other than your
4	faith or your community, please let me. I don't mean
5	to be offensive, and, again, I'm just ignorant to it.
6	I'm learning as I go.
7	So if I'm misstating anything, please
8	correct me. But what are some examples of what that
9	would mean? Would it mean going and helping someone
10	in aid? Going and cleaning the church on the
11	weekends?
12	A. That's correct.
13	Q. Okay. Is working important within your
14	faith and within your community?
15	A. Yes, it is.
16	Q. Now, how much oversight does and when
17	I say the church, I'm generally just referring to, I
18	guess, the Eastern Pennsylvania Mennonite Church as a
19	whole and also individual parishes, but how much
20	oversight does the church have over just the
21	day-to-day lives of members?
22	A. Very little.
23	Q. Are there rules to live by within the
24	community?
25	A. No.

	1
1	Q. Okay.
2	A. Honesty and integrity.
3	Q. Okay. Within your community if there is
4	any guidance that comes down from the church for its
5	members, how does that get communicated? Is it
6	through the bishops in each parish or how does that
7	work?
8	A. It's through the leadership of the
9	church.
LO	Q. And who is the leadership of the church?
11	A. Okay. We have a bishop, and then we have
12	ministry, and then we have a deacon.
13	Q. Okay. And pardon my ignorance. So if
14	you can, to the extent that you're able to, explain to
15	me who belongs where. Is it individual parishes? Is
16	it kind of the greater church? How does that
17	structure work to the extent that you know?
18	A. We have a church in general which is
19	called the Eastern Pennsylvania Mennonite Church.
20	Then we have districts which composes about five or
21	six congregations, and then we have a bishop over each
22	of those five or six congregations that give general
23	oversight.
24	Then we have ministry that is under that
25	that do the preaching basically, and the deacon of the

	16
1	church takes care of the details of the church. If
2	someone has a need in the congregation, he sees
3	helps to see that need. If there's a death, there's a
4	sickness, there's need, he will come out or call and
5	say can I help you.
6	Q. Okay. Now, I know that obviously being a
7	member of your church is voluntary. People can leave
8	if they would like to. Is there ever a time when
9	people are asked to leave by the church or asked to
10	leave the community or for any reason non-voluntarily
11	have to leave?
12	A. No. No. If a person would be involved
13	in immorality, for example, they would be
14	excommunicated, but they would not be told to leave.
15	Q. Okay. What
16	A. We encourage them to stay.
17	Q. Sorry. I didn't mean to interrupt you.
18	What does it mean to be excommunicated?
19	A. It means you're just removed from church
20	membership, so then you're not entitled to communion.
21	That's all basically.
22	Q. Okay. If someone is excommunicated, are
23	there any rules that prohibit them from communicating
24	with other members of their family who are still
25	within the community?

	17
1	A. No, no.
2	Q. Okay. So kind of moving on from that and
3	just asking you a little bit more about your business
4	and personal life, do you have currently any ownership
5	interests in any businesses?
6	A. No.
7	Q. Do you have any financial interests in
8	any businesses other than the job you were
9	A. Well, I have a business called Blue
LO	Mountain Supply.
L1	Q. Okay.
L2	A. Which is I'm dissolving that presently.
L3	It's a fencing business. The farm I sold to my
L4	daughter and her husband. That is all.
L5	Q. Okay. So this case generally encompasses
L6	the years of about 2010 to 2014. So if at any point I
L7	mention the time frame of this case or those years, I
L8	may be asking you some specific questions encompassing
L9	that time. I know that was a while ago now.
20	So if there's anything you don't
21	remember, please let me know. But if I do reference
22	the time frame of this case, that's generally what I
23	will be referring to. If you need any clarification,
24	again, please ask.
25	So during the time frame of this case

		18
1	that we're he	ere for, did you have any ownership
2	interests in	any businesses other than the farm that
3	you had sold	to your daughter or Blue Mountain Supply?
4	Α.	No.
5	Q.	Any financial interests in any other
6	businesses?	
7	A.	No.
8	Q.	How long have you been involved in Blue
9	Mountain Supp	ply?
10	A.	I don't remember. It's many years.
11	Q.	Was it before 2011?
12	A.	Yes.
13	Q.	And you said it was a fencing business?
14	Α.	Yes.
15	Q.	Did it build fences?
16	A.	Yes.
17	Q.	Did you have your own sawmill or
18	anything? Wa	as it wooden fences?
19	A.	It was vinyl fencing.
20	Q.	Okay. So like what you would see in
21	someone's bac	ckyard?
22	Α.	Yeah.
23	Q.	Okay. So currently you live in Newville?
24	A.	That's correct.
25	Q.	Where did you hold your personal bank

1	accounts? Is	s it a local bank? Is it a state bank?
2	Α.	Newville.
3	Q.	Okay. They have their own bank?
4	A.	Yes.
5	Q.	Okay. What about Blue Mountain Supply?
6	Where do they	y hold their or where does it hold its
7	bank account	at?
8	A.	Same bank.
9	Q.	Do you have any employees?
10	A.	No.
11	Q.	Just you?
12	A.	Just me. I subbed out the work that
13	needed to be	installed.
14	Q.	Okay. Do you generally when you sub
15	out work or	you hire any contractors, do you usually
16	keep it with:	in people within your community or do you
17	hire or subco	ontract out to people that are not within
18	your communit	ty?
19	A.	I only ever had one. He was sort of an
20	independent.	
21	Q.	Okay.
22	A.	That's
23	Q.	Now, of the businesses that we've talked
24	about, whether	er it be the farm or the supply company,
25	were any of	them associated in any way or receive any

1	benefit from	any work performed at Liberty Ridge?
2	Α.	No.
3	Q.	So I want to get a little bit more now
4	into Liberty	Ridge and just how it was formed. How
5	did you firs	become involved with Liberty Ridge?
6	Α.	The church asked me to be involved.
7	Q.	And when you say the church asked you,
8	who was it the	nat communicated to you? I know I keep
9	referring to	the church kind of as this nebulous
10	entity, but	I know there are individuals involved.
11	Α.	It was the Mission Board that asked me.
12	Q.	Okay. And when was that?
13	Α.	I don't remember.
14	Q.	If I said around 2010 give or take, does
15	that sound al	oout right?
16	Α.	I don't remember.
17	Q.	Okay. Do you remember who it was
18	specifically	from the Mission Board who asked you?
19	Α.	Yes. I think it was Jacob Brubaker.
20	Q.	Okay. Do you remember who he was or what
21	his position	was on the board?
22	Α.	No.
23	Q.	Okay. Do you have or did you have any
24	involvement :	in the Mission Board at that time?
25	Α.	No.

1	Q. Did you know Jacob I'm sorry. I can't
2	speak today. Did you know Jacob Brubaker or any other
3	members of the Mission Board just personally or
4	through the church before they asked you?
5	A. Just through the church.
6	Q. Okay. And within your district when you
7	mentioned the church, is it a small community?
8	A. Yeah. It's five congregations, something
9	like that.
10	Q. So you know or at least are aware of
11	A. Oh, yeah.
12	Q most people that are within it?
13	A. Mm-hmm.
14	Q. Okay. After they or the Mission Board
15	asked you to become involved with Liberty Ridge, did
16	you attend any of the Mission Board meetings or were
L7	you involved in any discussions with them?
18	A. No.
19	Q. Okay. And what exactly, if you can
20	recall, did Mr. Brubaker ask you or tell you when he
21	first communicated with you about the creation of
22	Liberty Ridge?
23	A. He just asked me if I would be interested
24	in serving.
25	Q. Okay. Did he say anything else? What it

4	111 6	22
1		or what it would involve?
2	Α.	We knew it was with youth, working with
3	youth. That	's all.
4	Q.	Okay. When you're chosen or asked to
5	volunteer by	the Mission Board, I'm assuming this was
6	not a paid pe	osition?
7	A.	No.
8	Q.	Okay. Was there some sort of a committee
9	formed or any	ything to that nature?
10	A.	Yes.
11	Q.	Were you part of that committee?
12	A.	Yes.
13	Q.	Do you remember who else was on the
14	committee?	
15	A.	Yes. Jacob Brubaker, Lamar Garman,
16	Nelson Marti	n, myself. I think that's all.
17	Q.	Okay. Did your committee meet
18	independently	y to discuss the creation of Liberty
19	Ridge?	
20	Α.	Yes.
21	Q.	And what all did you talk about in your
22	meetings?	
23	Α.	I don't remember everything.
24	Q.	If you can remember any specifics just to
25	kind of give	me an idea of what it was. I mean, for

1	example, were you tasked with creating the entity from
2	the ground up or did the board give you any guidance?
3	How did that work?
4	A. We worked trying to establish what we
5	wanted to accomplish and where we wanted to have a
6	facility, under what guidelines we were going to
7	operate, I guess.
8	Q. Okay. Now, do you remember at any point
9	when you were discussing with your committee
LO	establishing Liberty Ridge that there was a proposal
L1	from a company called Snyder Gates or another company
L 2	that wanted to do work with Liberty Ridge?
L3	A. Yes. I remember it being discussed.
L 4	Q. Okay. Do you remember anything else
L5	about it?
L6	A. No.
L 7	Q. Do you remember anything specific from
L8	the discussion that you had amongst the committee?
L9	A. No.
20	Q. Did you personally talk with anybody from
21	Snyder Gates about this?
22	A. I talked to the owner at the time which
23	was Nolan Snyder.
24	Q. Okay. Do you recall any of that
25	conversation?

	\cap \cap \cap
1	A. No. That's been so long ago.
2	Q. I apologize. I know that it has been
3	quite some time, so I don't mean to presume that you
4	remember things from 23 years ago now.
5	A. Something like that, yeah.
6	Q. If you can't, that's fine. I want to
7	point you to we'll go to Page 93. It's LRF-93
8	which is almost halfway through the stack. Just let
9	me know when you get there.
10	A. 93. Here?
11	Q. Yes. So towards the bottom of the page
12	it says Number 13, specifically it says the committee
13	presented a proposal from Snyder Gates LLC that would
L4	allow them
15	A. I'm sorry. Okay. Number E? Okay. Yes.
16	I'm with you now.
17	Q. Okay. That would allow them to set up
18	the shop to manufacture fiberglass farm gates
19	incorporating the labor of the Liberty Farm residents.
20	Snyder Gates would provide training and management for
21	a one-year period.
22	At that point a decision would need to be
23	made whether the farm would purchase the manufacturing
24	machinery or discontinue the contract. Snyder Gates
25	would continue to handle the inventory and sales. A

1	motion carried to allow them to use and enter a
2	one-year agreement.
3	Now, do you remember drafting or creating
4	or being involved in any way with a contract with
5	Snyder Gates?
6	A. No. I don't remember.
7	Q. Okay. And do you recall anything about
8	the conversations with any representative from Snyder
9	Gates about incorporating the labor of the Liberty
10	Ridge Farm residents?
11	A. No. I don't remember.
12	Q. Okay. You don't remember any of the
13	other specifics about the proposal or the arrangement?
14	A. That was not my role.
15	Q. Okay. Whose was it?
16	A. Nelson Martin.
17	Q. Okay. Do you recall what his role was on
18	the committee? Actually, let me take that back. Did
19	you all have specific roles or did you work kind of as
20	a group?
21	A. No. We had specific roles.
22	Q. What was your specific role?
23	A. Secretary.
24	Q. Okay. And what was Mr. Martin's?
25	A. Treasurer.

	26
1	Q. Okay. And did you know Mr. Martin prior
2	to being on the committee together?
3	A. No.
4	Q. Okay. So they just threw you all
5	together?
6	A. Yeah.
7	Q. Okay. So if I were to ask questions
8	about any of the financial benefit from this
9	arrangement, how the sales worked, anything like that,
10	you wouldn't have any knowledge?
11	A. I have no idea.
12	Q. Okay. You think Mr. Martin would?
13	A. I would guess so, but I do not know.
14	Q. Okay. Excuse me. I apologize. I'm
15	losing my voice. Are you familiar with any other
16	businesses that have done any sort of business or had
17	an arrangement with Liberty Ridge just over the years?
18	Specifically, some of the names that have come up are
19	Sensenig Chair Shop, Clark's Feed Mill, Wengerd Pallet
20	Company, or Dutch-Way Farm Market.
21	A. I was not involved in that. That was not
22	my role.
23	Q. Okay. Were you familiar with them or at
24	least knew of them?
25	A. Well, I heard the names. That's all.

1	Q. But you weren't involved in their
2	business in any way?
3	A. No, no.
4	Q. Okay. And you weren't involved with any
5	arrangement between them and the farm?
6	A. No.
7	Q. Okay. Sorry. Just give me one moment.
8	When I start talking too much, I just need to start
9	drinking a whole bunch of water. Are you good
10	you're good to keep going?
11	A. Mm-hmm.
12	Q. Okay. At the inception of Liberty Ridge
13	in about 2011, how was the how was the farm run?
14	What was the organization structure, if you recall?
15	Was there a board of directors?
16	A. Yes.
17	Q. Okay. And do you recall who was on the
18	board?
19	A. The original it was Jacob Brubaker,
20	Lamar Garman, Nelson Martin, myself. Might be one
21	more.
22	Q. So the original committee?
23	A. Huh?
24	Q. The original committee?
25	A. The original committee.

1	Q.	Okay.
2	Α.	Yeah.
3	Q.	And were you at that point when it became
4	an official l	poard were you still the assistant
5	secretary?	
6	A.	I was secretary originally.
7	Q.	You were secretary, okay. And when did
8	that change?	
9	A.	I don't recall.
10	Q.	Do you recall if it was before or after
11	2014? Again	, if you don't remember, please tell me.
12	A.	I don't remember. I don't remember.
13	Q.	So the Liberty Ridge Farm Board, who do
14	they answer t	to or do they have to give any updates or
15	answer to any	y other entity or person in particular?
16	A.	The Mission Board.
17	Q.	Okay. And do you know or at least from
18	your knowledg	ge generally what is the Mission Board or
19	what is their	role? What do they do within the
20	church?	
21	Α.	They would direct these kind of affairs.
22	Q.	Okay. Do you know who the Mission Board
23	would answer	to?
24	Α.	The Bishop Board.
25	Q.	Okay. So the church does have a Bishop

		29
1	Board?	
2	Α.	Yes.
3	Q.	Okay. How often would you or anybody
4	from the Lib	erty Ridge Board have to report to the
5	Mission Board	d?
6	A.	Jacob Brubaker reported. I have no idea
7	how often he	reported.
8	Q.	Okay.
9	A.	He was the Mission Board representative
10	on our on	Liberty Ridge Board.
11	Q.	Oh, he was. Okay. Were all of the
12	members of the	he Liberty Ridge Board members of the
13	Eastern Penn	sylvania Church?
14	A.	Yes.
15	Q.	Okay. What about the Mission Board?
16	A.	Yes.
L7	Q.	Okay. Do you have to be in any sort of
18	standing or	good standing or anything with the church
19	or can it ju	st be anybody who wants to volunteer?
20	A.	They wanted those in good standing with
21	the church.	
22	Q.	What does that mean within your community
23	to be in good	d standing with the church?
24	A.	That you're in harmony with the church
25	structure.	

		30
1	Q.	Okay. And who makes that decision or is
2	it just comm	on knowledge?
3	A.	Common knowledge, I guess.
4	Q.	Okay. They wouldn't have somebody come
5	and tell you	like you're in good standing?
6	Α.	No, no.
7	Q.	Okay. Are you familiar with the
8	publication	that Eastern Mennonite Testimony?
9	Α.	Yes.
10	Q.	What is that?
11	Α.	It's just basically the organ of the
12	church that	reports on the function of the church and
13	also keep us	doctrinally connected, cohesion.
14	Q.	Okay. Is that the main, I guess,
15	publication	of the church?
16	Α.	That is the main publication, yes.
17	Q.	Okay. Do you know who puts it out?
18	Α.	The Publication Board.
19	Q.	Okay. So that's its own board?
20	Α.	Yeah, that its own board.
21	Q.	And who reads it? Is it just members of
22	the church?	
23	Α.	Anyone can read it.
24	Q.	Okay.
25	Α.	If you want a copy, we can get you a

-	31
1	copy.
2	Q. And who writes for it? Is it just
3	members of the community? Do they tell people to
4	write articles? Do people volunteer?
5	A. They would ask those to write on it. The
6	Publication Board has their board, and I think they
7	ask other persons. They could ask me to write if they
8	want.
9	Q. Okay. And this may be silly, and I
10	apologize if I don't know. Is this put out in a
11	written publication? Is it
12	A. Yes.
13	Q. Is it emailed out to people? I don't
L4	know too much about your faith. I know you're very
15	conservative. I don't know what your internet access
16	is. So I, again, apologize if I'm being ignorant if I
17	don't know.
18	A. We get it on a written form.
19	Q. Okay.
20	A. Otherwise, I'm not aware if it's any
21	other media form.
22	Q. Okay.
23	MS. WYNKOOP: Real quick. Just make sure
24	she finishes because she can't type down everything.
25	A. Okay. Sorry. Sorry.

1	BY MS. FRANCHI:
2	Q. I have often been yelled at by
3	stenographers before also for speaking over people
4	unintentionally. So if I get yelled at, I usually
5	just say I'm sorry and then move on.
6	Okay. So I want to go to the very first
7	page of the book, so you don't have to flip around too
8	much. PLS Page 1. Do you recognize this document at
9	all? You can flip through it. It goes until Page 15.
10	A. Yes.
11	Q. And what is it?
12	A. It's the organ of the church.
13	Q. And specifically going to Page 12 and 13,
14	do you recognize this article?
15	A. Oh, yes.
16	Q. Do you know who wrote it?
17	A. I wrote it.
18	Q. So when it says Brother Ethan for the
19	Liberty Ridge Farm Committee, that's you?
20	A. Yeah.
21	Q. And were you asked to write this?
22	A. Yes.
23	Q. Who asked you?
24	A. I don't remember.
25	Q. Do you remember who they represented?

	2.2
1	A. No, I don't. No.
2	Q. Was it somebody from the Publication
3	Board? Somebody from the church? Somebody from the
4	Mission Board? If you remember at all.
5	A. No. I do not remember.
6	Q. Now, obviously we can read through the
7	article. We know what it says. I'll spare the
8	stenographer from having to type the whole thing or
9	listening to me read it.
10	Just generally in your words what was the
11	purpose of putting this article out?
12	A. To inform the church of the Liberty Ridge
13	and to create a burden for the work.
14	Q. Okay. And this went out to members of
15	the church community?
16	A. Yeah.
17	Q. Okay. And was Liberty Ridge Farm
18	something that was talked about within the church
19	community? Was it I guess was it seen as being a
20	church organization?
21	A. Yes.
22	Q. Okay. Were you aware of anything kind of
23	behind the scenes in the business structure of Liberty
24	Ridge? Like how it was registered? Who owns it?
25	Anything like that?

_		34
1	Α.	No, no.
2	Q.	Does the Board have any governing
3	documents li	ke bylaws or rules or anything like that?
4	Α.	Yes.
5	Q.	You do, okay. And do you recall what
6	they are? I	s it just the bylaws? Are there other
7	articles?	
8	A.	Bylaws.
9	Q.	Okay. And they were put into place at
10	the beginning	g
11	A.	Yes.
12	Q.	when it was created?
13	A.	Yes.
14	Q.	Do you remember if they've been amended
15	at all since	then or have they stayed pretty
16	consistent?	
17	A.	Pretty much the same. Very few
18	amendments.	
19	Q.	Now, in opening Liberty Ridge I know that
20	you had said	that you and the committee had talked
21	about the pu	rpose and just what you wanted to
22	accomplish.	Just in your words what was the purpose
23	of creating	Liberty Ridge?
24	A.	To help troubled youth.
25	Q.	Okay. And when you say troubled youth,

	35
1	what does that mean to you or within the Eastern
2	Pennsylvania community?
3	A. Youth that are struggling with the issues
4	of life.
5	Q. Okay. And what do you consider to be the
6	issues of life?
7	A. Respect, trust, honesty.
8	Q. Okay. And was it supposed to be a
9	therapeutic setting for these boys?
10	A. Yes.
11	Q. Okay. Were there any therapists or
12	medical doctors or any of those types of professional
13	staff working at Liberty Ridge or that contracted with
14	Liberty Ridge?
15	A. No.
16	Q. Okay. Who determined whether a child was
L7	considered to be, I guess, troubled in evaluating them
18	to go to Liberty Ridge? I guess what does that
19	what does that include and who kind of makes that
20	assessment?
21	A. Parents.
22	Q. Okay. Now, would parents who would
23	they come to? Would they come to anybody on the board
24	or was there a specific individual?
25	A. No. They would come to the chairman.

	36
1	Q. And who was that?
2	A. Jacob Brubaker.
3	Q. Oh, it was. Okay. Were there any
4	professional assessments required or was it just them
5	saying that they
6	A. It was just them.
7	Q. Okay.
8	MS. WYNKOOP: Make sure she finishes her
9	question.
10	A. Sorry.
11	MS. WYNKOOP: That's okay.
12	BY MS. FRANCHI:
13	Q. So when a parent would come to
14	Mr. Brubaker indicating that they have their
15	child I'll just use the word troubled because
16	that's what you used, what would happen after that?
17	Like how would the process of them placing their child
18	in Liberty Ridge come about? If you know or recall.
19	A. Well, the first thing was a questionnaire
20	was given to the parents and the resident. Then it
21	was completed and returned. And then the boy was a
22	resident was the boy was put there on his own will.
23	He signed his document. He's ready to come.
24	Q. Okay. So you would have the child sign a
25	document as well?

_	_	37
1	Α.	Yes.
2	Q.	Okay.
3	Α.	Yes.
4	Q.	Did you when I say you, I mean the
5	committee or	the board or the general leadership of
6	Liberty Ridge	e, not to put it on you personally, did
7	you or the bo	oard have any sort of advertising or was
8	it just word	of mouth within the community?
9	A.	Only word of mouth.
10	Q.	So you didn't have a pamphlet saying, you
11	know, here's	Liberty Ridge?
12	A.	No.
13	Q.	Okay. And was it something that was
14	spoken about	during sermons or during church time or
15	was it just w	within the community just talked about?
16	A.	Within the community.
17	Q.	Okay. Now, when a child is placed or was
18	placed at Lil	perty Ridge, are there individual
19	treatment pla	ans or therapies or, I guess, is it
20	individualize	ed for all the children?
21	A.	Yes.
22	Q.	Okay. In what way? If you know.
23	Α.	We would make an evaluation based on our
24	best knowledg	ge and tailor the program accordingly.
25	Q.	What kind of an evaluation would that be?

1	38 A. Based on the questionnaire that the child
2	prepared.
3	Q. What are some of the items that were
4	evaluated? Would it be their behaviors? Struggles?
5	Things like that?
6	A. Behavior and struggles, fears.
7	Q. Okay. Were there any sort of therapeutic
8	evaluations? Psychological? Medical evaluations?
9	A. Yes, occasionally whenever there was a
10	need evident.
11	Q. Okay. So who then after the
12	questionnaire was, I guess, submitted, who would
13	perform, I guess perform or undertake or go about the
14	evaluation of the child and kind of tailoring the
15	program to them?
16	A. That was the board.
L7	Q. The whole board?
18	A. Whole board.
19	Q. Okay. So moving on a little bit, how
20	were the mentors chosen that were involved in Liberty
21	Ridge?
22	A. The church leadership would consider the
23	various possibilities and then ask them if they would
24	serve.
25	Q. Okay. And how if you know, how did

		39
1	the church c	onsider the mentors? Did they come to the
2	church and s	ay I want to volunteer? Would the church
3	seek them ou	t?
4	Α.	Most the church sought them out.
5	Q.	Okay. And do you know what that involved
6	or why they	would seek out certain individuals?
7	А.	No.
8	Q.	Okay. Do you know who would know?
9	А.	Pardon?
10	Q.	Do you know who would know? I'm sorry
11	I'm speaking	quietly.
12	Α.	The chairman I suppose.
13	Q.	Mr. Brubaker?
14	Α.	Yeah.
15	Q.	Okay. Did the mentors have any sort of
16	training to	work at Liberty Ridge?
17	A.	We had a brief orientation program.
18	Q.	Do you know what the orientation program
19	involved?	
20	A.	It was basically outlining the purposes,
21	the objectiv	es of Liberty Ridge.
22	Q.	Okay. And these mentors, were they
23	within a cer	tain age group? A certain demographic?
24	Is there any	thing specific about them that would make
25	them common	or is it just anybody the church found to

1	be appropriate?
2	A. It's what the church found appropriate.
3	Mature, steady with no record of problems.
4	Q. Were they generally married or single?
5	A. Single.
6	Q. Okay. So they were young men?
7	A. Yes.
8	Q. They were adults?
9	A. Yes.
10	Q. Okay. Do you know if they had any
11	training specifically for working with high needs
12	children such as children with mental health issues or
13	diagnoses or emotional issues?
14	A. No.
15	Q. Do you know while you were on the board
16	or on the committee creating Liberty Ridge and also
17	while you were on the board, did Liberty Ridge obtain
18	any state or governmental licensing or anything like
19	that prior to opening?
20	A. Not that I'm aware of.
21	Q. Okay. Do you recall when Liberty Ridge
22	opened, did it have just one resident or were there
23	multiple that came in at once?
24	A. One to begin.
25	Q. Do you remember who that was?

1	Α.	David Cross.
2	Q.	And do you recall, if you do remember,
3	how long he	was there alone before another resident
4	came in?	
5	Α.	I do not know.
6	Q.	Generally speaking, about how many
7	residents at	a time are there at Liberty Ridge?
8	Α.	It varied quite a bit.
9	Q.	Okay. Generally, from one to how many?
10	A.	One to four at the most.
11	Q.	Okay. So there weren't dozens of
12	children?	
13	A.	No, no.
14	Q.	So you said that you are now the
15	assistant sec	cretary?
16	A.	Yes.
17	Q.	But you were the secretary?
18	A.	Yes.
19	Q.	Okay. What were your duties as secretary
20	for Liberty	Ridge?
21	A.	Take the minutes from the board meetings.
22	I sat there a	and listened.
23	Q.	I'm familiar with that. I have also been
24	the secretary	y on a board before, and you do sit there,
25	and you act	like a stenographer. Did you have any

1	other specific roles to you as the secretary?
2	A. No, other than putting things in a file
3	cabinet. That's about all.
4	Q. What about now as the assistant
5	secretary?
6	A. Less yet.
7	Q. Did the other I guess general duties
8	of the board, were they kind of shared amongst
9	everybody other than the specific you take notes, you
10	know, you
11	A. Yeah.
12	Q. Okay.
13	A. Yes.
14	Q. During the years of 2011 to 2014, did you
15	have an active position on Liberty Ridge's property at
16	all?
17	A. Yes. I was house parent.
18	Q. Oh, were you? Okay.
19	A. Yes.
20	Q. Were you a house parent that whole time?
21	A. I was house parent until '16.
22	Q. Okay. So from 2011 to 2016?
23	A. That's right.
24	Q. Okay. The current Mission Board and also
25	the Mission Board when Liberty Ridge was created, were

1	you personally related to anybody on the board like
2	family members?
3	A. No.
4	Q. Okay. What about anybody else involved
5	in the Liberty Ridge?
6	A. No.
7	Q. So talking a little bit about being a
8	house parent, just in your words, what were your
9	responsibilities as a house parent?
10	A. Just like a normal household. Give
11	direct feed and clothe them and see they follow
12	schedule.
13	Q. Did your wife live there with you?
14	A. Yes.
15	Q. Did your I cannot remember when you
16	said your children's birthdays were. Did they live
17	there with you or were they already out of the house?
18	A. No. They were both married.
19	Q. Okay. So as a house parent, if you could
20	describe to me, you were literally living in a house
21	with the residents?
22	A. Yes.
23	Q. Okay. Were the mentors living there,
24	too?
25	A. Yes.

	44
1	Q. Was it just one house at that time?
2	A. Yes.
3	Q. In the best way that you can, could you
4	just describe the house a little bit? Was it one
5	story, and everybody was sleeping in one room? Were
6	there multiple bedrooms? If you could, just explain.
7	I mean I don't know what it looks like, so if you
8	could explain it to me.
9	A. Of course. We as house parents had our
10	separate bedroom, and the residents' bedroom is
11	upstairs.
12	Q. And all the residents shared a bedroom?
13	A. Well, there was only one boy to start, so
14	yeah.
15	Q. Well, after that?
16	A. We put boys in rooms as there was space.
17	Q. Okay. What about the mentors? Where do
18	they sleep?
19	A. They slept with the resident in a
20	separate bed.
21	Q. Okay. Excuse me. Were you paid to be a
22	house parent?
23	A. Yes.
24	Q. How much were you paid?
25	A. \$2,000 a month.

1	Q.	Okay. Was your wife paid or was it
2	just	
3	Α.	No.
4	Q.	Okay. And did your wife have any duties?
5	Α.	She fried the eggs and did the cooking,
6	baking, just	like a mother would.
7	Q.	That was going to be my next question.
8	She was kind	of like the mother to everybody?
9	A.	She was a mother. She did a very good
10	job.	
11	Q.	Was she or did you both kind of act as
12	parents to the	ne mentors and the residents or mainly
13	just the res	idents, and the mentors were other just
14	adults in the	e household?
15	A.	We were mentors to all.
16	Q.	Okay. Did you ever get a break?
17	A.	Yes.
18	Q.	How often?
19	A.	Every weekend we were off.
20	Q.	Okay.
21	A.	And we had breaks as we asked for them.
22	Q.	Okay. What about the supervision of the
23	mentors? We	re you actually, let's go back. Were
24	you the only	house parent from 2011 to 2014?
25	Α.	Permanent house parent?

	4.5
1	Q. I don't know. Were there more than one?
2	A. Well, weekends. Others would come in on
3	weekends, so somebody else was there. We were there
4	during the week.
5	Q. Okay.
6	A. That's all.
7	Q. Okay. So who did the mentors kind of
8	answer to? Did you communicate direction to the
9	mentors or did they receive their, I guess, direction
LO	from someone else?
L1	A. Both.
L2	Q. Okay.
L3	A. During the day, they would ask me. And
L4	if there's other questions, they would respond to
L5	other board members.
L6	Q. Okay. Not anyone in particular?
L7	A. No.
L8	Q. Okay. Do you know who gave the mentors
L9	the day-to-day directions as to, you know, you're
20	going to have this child do this, you're going to have
21	this child do that, or did the mentors make their own
22	individual determinations?
23	A. The mentors were assigned to a boy, a
24	resident.
25	Q. Okay.

1	A. And they were responsible to see that the
2	schedule was met, that they were comfortable.
3	Q. The different I guess I don't want to
4	say business entities, but the different kind of types
5	of work to do at the farm, I know that there was a
6	proposal from the gates, so I'm assuming they were
7	making some type of gates at one point.
8	There was other farm work like the
9	chicken house, things like that, so I guess individual
LO	jobs on the farm for the boys. Who determined, you
L1	know, you're going to work in the chicken house today,
L 2	you're going to build gates today? Do you know who
L3	made that determination?
L4	A. That was a corporate decision among the
L5	staff.
L6	Q. Okay. And when you say the staff, you
L 7	mean the board?
L8	A. I meant the mentors, the mentors.
L9	Q. Okay.
20	A. In other words, I'd say who wants to do
21	or we'd have it by I forget how we had it
22	scheduled. This man this mentor was responsible
23	for the chickens, and this one was responsible for,
24	let's say, the firewood.
25	Q. Okay. So did you or the board get any

1	\$48\$ get any direction from the Mission or anybody else to
2	say I need, for example, someone to work 12 hours
3	building gates this week or anything like that?
4	A. No, no.
5	Q. Okay. Were the mentors paid?
6	A. A small stipend.
7	Q. Okay. Do you know how much that was?
8	A. I don't recall. I don't remember what
9	that was.
10	Q. And if a mentor didn't want to be a
11	mentor anymore, could they go leave and seek
12	employment somewhere else?
13	A. Yes.
14	Q. Okay. And then the board would just
15	select someone else or the church would say you're
16	going to take someone else or how would that role be
17	filled?
18	A. Mentors were free to go whenever they
19	wished, although they were asked how long they're
20	going to be there, and then the Mission Board would
21	fill in the gap.
22	Q. Okay. Did you personally go through any
23	training before working at Liberty Ridge?
24	A. None, other than observing other
25	institutions, how they operated.

		40
1	Q.	Okay. Do you remember any of them?
2	A.	LUC in Missouri. Fresh Start in Indiana.
3	Team Boys Rai	nch in Missouri.
4	Q.	What does LUC stand for?
5	Α.	Lives Under Construction.
6	Q.	Okay. So these are all similar
7	facilities?	
8	Α.	Yeah.
9	Q.	Were they all run by the Eastern
10	Pennsylvania	Mennonite Church or were there other, I
11	guess, divis	ions of the church that ran them?
12		MS. WYNKOOP: Objection to form. You can
13	answer.	
14	BY MS. FRANCI	HI:
15	Q.	Do you need me to repeat?
16	Α.	Yeah.
17	Q.	Okay. So these other facilities that you
18	went to see,	do you know which church entity oversaw
19	each of them	?
20	A.	No.
21	Q.	Was it the Eastern Pennsylvania Church?
22	A.	No.
23	Q.	So they were all different?
24	A.	That's correct.
25	Q.	This is more of a clarification question.

50 1 When I talk about the Eastern Pennsylvania Church or 2 other Mennonite churches, should I refer to them as other Mennonite churches or other Mennonite 3 organizations or divisions? What's the proper way to 4 refer to each individual, I guess, overseeing body of 5 the different types of Mennonite faiths, I guess? 6 7 Α. I don't understand your question. So if I were to say there's like the 8 0. 9 fellowship or Eastern Pennsylvania, what do you call 10 those individual bodies of church? 11 They would be their own conference. Α. 12 Conference, okay. That's the word I was 0. 13 looking for. I just want to make sure I'm not 14 misspeaking or referring to something that's 15 incorrect. 16 So day-to-day at Liberty Ridge, kind of 17 walk me through from when the boys would get up and 18 what they would do through the rest of the day, I 19 guess approximate times of when each thing would 20 occur. 21 They got up at I think 6:30. Α. It's 22 getting fuzzy. Came downstairs. Of course, you got 23 ready for the day. Came downstairs. Had their 24 personal devotions. They made breakfast. They went for a walk first when they wake up to wake them up. 25

	51
1	Then they had devotions. They had breakfast, and we
2	have family worship. Then we had the activities of
3	the morning. Some boys went to school. Some did
4	laundry, dishes, domestic duties.
5	Q. How long would that go on for?
6	A. You mean?
7	Q. The devotions and then the activities
8	before they kind of left the house for the day?
9	A. I think at 8:00, if I recall correctly,
LO	that's when the day's activities began.
L1	Q. Okay. And how long did the, I guess,
L2	day's activities go on for until there was some kind
L3	of break or lunch or anything like that?
L4	A. They were free to take a break anytime
L5	really. If somebody needed to drink, they were always
L6	free to go get a drink.
L7	Q. Okay.
L8	A. Depends on if we were in the chicken
L9	house which is dusty, we got drinks more often, of
20	course.
21	Q. Chickens are really dirty.
22	A. Yeah.
23	Q. And around what time was, I guess, like
24	the lunch break or like the midday break?
25	A. They had an hour at lunch time.

[
1	Q.	Okay. Would they come back up to the
2	house to eat	?
3	A.	Yes.
4	Q.	So your wife would cook them lunch
5	usually?	
6	A.	Yes.
7	Q.	What time did they, I guess, go back out
8	or did they	have after lunch were there other
9	activities b	efore going back out to work?
10	A.	After lunch at 1:00 we had a class.
11	Q.	Okay.
12	A.	In the basement in the classroom.
13	Q.	What kind of class?
14	A.	It was more of a structuring Bible class,
15	morals.	
16	Q.	Did you run the class?
17	A.	Yes. Do you want me to
18	Q.	And did you run that class the whole time
19	that you were	e at Liberty Ridge?
20	A.	Yes.
21	Q.	Okay. So after that, around what time
22	would they g	o back out?
23	A.	2:00. 2 to sometimes we'd get on some
24	discussions.	The boys would ask questions. And when
25	boys are ask	ing questions, that was number one.

1	0	53
	Q.	So it wasn't you didn't hold them to a
2		schedule. You just wanted to make sure
3	their questi	ons were answered?
4	Α.	Yes.
5	Q.	How long would they then go back out to
6	work?	
7	Α.	They went out until supper time which was
8	5, I think.	
9	Q.	Okay.
LO	Α.	Then we'd come in and clean up and have
L1	supper. And	then it was activities times, kind of
L2	their free t	ime. We did many things in the evening.
L3	Q.	Like what?
L4	A.	Take a hike. Sometimes they wanted to
L5	split firewo	od. They just loved to split firewood. I
L6	thought that	's a little strange, but anyway they loved
L7	it.	
L8	Q.	Around what time did everyone go to bed?
L9	Α.	It was 9:00. 9:00 I think was was it
20	9:30? 9 to	10, I'll just have to give it to be
21	accurate the	re.
22	Q.	That's fine. I appreciate it. So you
23	said that yo	u kind of did the devotional studies after
24	_	he boys would ask a lot of questions. In
25		who would do their, I guess, Bible studies
-		

1	with them? Would it also be you?
2	A. That was the mentors took charge of that.
3	Q. Oh, they did. Okay. How many days a
4	week did the children adhere to this kind of general
5	schedule?
6	A. Five days a week.
7	Q. What about Saturday and Sunday?
8	A. Saturday we had a little bit of an
9	interrupted schedule. In other words, we did not have
10	school on Saturday. The exception would be there
11	sometimes if we had other activities that took place
12	of the school during the week, occasionally we had
13	school on Saturday.
14	Q. Okay. What about Sundays?
15	A. Sunday there was no school time at all.
16	No work time on Sunday.
17	Q. I'm assuming it was church and worship
18	time?
19	A. Church and worship time. They wrote
20	letters. Often took hikes. Many hikes.
21	Q. Did the children leave the property to
22	attend church or did somebody come in?
23	A. No. We left the property to attend
24	church.
25	Q. You did, okay. And where did you take

	55
1	them?
2	A. Various churches.
3	Q. Oh, okay. Was that based on anything in
4	particular or just to give them kind of a wide
5	variety?
6	A. Just to give them a wide margin.
7	Q. Okay. Do you know what happened to the
8	products that were kind of that were built by the
9	children when they were working like the gates or
10	anything else, any other type of work that was done?
11	A. That was beyond my role.
12	Q. Okay. Whose role would that be?
13	A. Nelson.
14	Q. Okay. So that was just not within your
15	assigned duties. Okay.
16	A. We were to make the gates and all the
17	other things.
18	Q. Okay. While you were a house parent at
19	Liberty Ridge at least from 2011 to 2014, do you
20	recall any of the other products that were built or
21	any of the other work or jobs that the boys performed?
22	A. We made little stools. This was a
23	project for them to make. Stools. We made a few
24	apple crates just for the fun of it. We did some
25	made some trails in the woods. We built switchbacks

1	56 where they dug furiously until they had they were
2	not forced, but they dug until they had blisters on
3	their hand. I marveled how they they were so
4	excited about it.
5	Q. And this was like trails through the
6	woods?
7	A. Yeah, yeah.
8	Q. Okay. How many acres were there?
9	A. I don't know.
10	Q. Were there any other products built that
11	were I guess that were sold? Were the stools sold
12	or were they for the boys?
13	A. No, no.
14	Q. Okay. The gates, though, I'm assuming
15	were sold?
16	A. Yeah.
17	Q. Okay. Was there I know there was a
18	small garden that some of the food was grown?
19	A. Yes.
20	Q. What about there was a lot of fields
21	there where other crops were grown; correct?
22	A. Yes.
23	Q. Okay. What happened to those crops?
24	A. Nelson sold them.
25	Q. Okay.

1	A. He was the took care of the products
2	that were finished.
3	Q. Okay. So any of those questions would be
4	something he would know?
5	A. Yeah.
6	Q. Okay. Do you know were the children ever
7	transported to other properties to do work anywhere?
8	A. Yes. We took the boys up to Ashland
9	Bible School to rake leaves in the fall.
LO	Q. Okay.
L1	A. There was an older man at the one church
L2	that we help to put a roof on. Probably some others,
L3	but I can't recall what they might have been.
L 4	Q. Okay. Were they transported off the
L5	property to build any products that were then sold or
L6	was it more volunteer work when they were
L7	A. It was all volunteer work.
L8	Q. Okay. Did they ever leave the property
L9	to do something like, you know, like deconstruct barns
20	or help put up barns or take anything to the Liberty
21	Ridge property to be used? Anything like that?
22	A. Yes. Neighbor had a barn foundation. It
23	was all stone.
24	Q. Okay.
25	A. I wanted the stone for a project. Never

1	used it, but	we brought those stones back to Liberty 58
2	Ridge.	
3	Q.	Okay.
4	A.	Beautiful limestones.
5	Q.	And then you never used them?
6	A.	No. I was going to make a wall. I just
7	thought that	would be an excellent skill for the boys
8	to learn.	
9	Q.	Okay. Now, as it relates to the
10	schooling tha	at the boys received, was it
11	individualiz	ed per child?
12	Α.	Yes, yes.
13	Q.	Okay. Who determined what type of
14	schooling the	ey would receive?
15	Α.	The board.
16	Q.	Okay. Who was there a teacher brought
17	in?	
18	Α.	Yes.
19	Q.	Who was it? Do you remember?
20	Α.	One of them was Leonard Sensenig.
21	Q.	Okay. And was he a traditional like
22	school teache	er within the community?
23	A.	Yes.
24	Q.	Okay. And do you know, and, again,
25	pardon my ign	norance, the teachers that are within your

	59
1	community, do they have any sort of like state
2	licensing or does your church have its own internal
3	determination of teachers and who can teach?
4	A. We have our own internal qualifications.
5	Q. Okay. When the children were in school,
6	did Liberty Ridge and the board regularly keep records
7	of the schooling?
8	A. Yes.
9	Q. Okay. Did each individual child, I
10	guess, have their own file with their own paperwork or
11	anything that occurred?
12	A. Yes.
13	Q. Okay. After the children left, did
14	were those files maintained or were any of them
15	purged?
16	A. I have no idea.
17	Q. Okay. Who would take care of that, if
18	you know? I'm assuming not you.
19	A. No. Mostly the mentors would have taken
20	care of that.
21	Q. Okay. Are you familiar with the daily
22	moral inventories?
23	A. Yes.
24	Q. What are they?
25	A. It's to record their thoughts, their

		60
1	goals, aspira	ations, recorded their failures, and how
2	they could do	better.
3	Q.	Who writes them?
4	Α.	The boys did.
5	Q.	Was this like a supervised project with
6	their mentors	s or were they just left alone to do it?
7	A.	The mentors saw that it got done.
8	Q.	Okay.
9	A.	But the boys were free to write their own
LO	thoughts.	
L1	Q.	Okay. Did the mentors have any say over
L2	what was put	in these inventories?
L3	Α.	No.
L 4	Q.	Okay. Do you know within Liberty Ridge
L5	anywhere were	e there any like Department of Labor
L6	notices poste	ed or like the children's rights or the
L7	rules or anyt	thing like that posted anywhere on the
L8	property for	the children to see?
L9	Α.	No.
20	Q.	Okay. Typically, how long did children
21	reside at Lil	perty Ridge or did it depend?
22	A.	It varied greatly.
23	Q.	Who would determine how long they were
24	staying?	
25	Α.	The board.

	61
1	Q. Okay. So generally the board would make
2	the individual decisions together on all the children?
3	A. That's correct.
4	Q. Okay. How often were their board
5	meetings?
6	A. Once a month.
7	Q. Okay. So once a month they would go over
8	everybody, their progress, things like that?
9	A. Yes.
10	Q. And the mentors would provide that
11	information to the board?
12	A. Yes.
13	Q. Okay. What if one of the children wanted
14	to leave, but it was determined that they needed more,
15	I guess, treatment or needed more time there, could
16	the children or the individual child choose to leave?
17	A. They were free to leave, although they
18	were not encouraged to do so.
19	Q. Okay. What would happen if a child tried
20	to leave? Were the mentors given any direction on how
21	to handle that?
22	A. Yes.
23	Q. What was that?
24	A. When a boy when David Cross walked
25	off, we walked with him to the edge of the property.

	62
Q.	Okay. Do you remember how many times
Mr. Cross tr	ied to leave?
Α.	I think once or twice.
Q.	And, again, I know I'm making you go back
a whole bunc	h of years.
Α.	Yeah. I'm not all together sure.
Q.	Okay. How were the children dissuaded
from trying	to leave?
Α.	Basically say if you would leave, you're
on your own.	
Q.	Okay. Now, who had the most, I guess,
day-to-day i	nteraction with the residents? Would that
be the mento	rs?
Α.	The mentors, yes.
Q.	So you weren't standing there with the
mentors all	day like looking at them and making sure
they were do	ing what they needed to do?
Α.	No.
Q.	Okay. So they were kind of given their
own I wan	t to say they weren't like super closely
supervised.	They were given their own kind of lead to
deal with th	e boys as they felt fit; correct?
Α.	Yes.
Q.	Okay. So there were times obviously
during the d	ay that you didn't see them. You weren't
	Mr. Cross tr A. Q. a whole bunc A. Q. from trying A. on your own. Q. day-to-day i be the mento A. Q. mentors all they were do A. Q. own I wan supervised. deal with the A. Q.

1	standing there watching all of them all day?
2	A. That's correct.
3	Q. Okay. I know in some of the discovery,
4	some of the answers and just speaking to people that
5	the phrase like spiritually strong enough comes up a
6	lot. The boys needed to be, I guess, spiritually
7	strong enough to leave. What does that mean to you or
8	within Liberty Ridge?
9	A. To be spiritually strong is to be able to
10	face life intelligently.
11	Q. Okay. And would this be based on the
12	general Eastern Pennsylvania standards, I guess, or
13	just how you were taught to live within the community?
14	A. It would be society's standards.
15	Q. Okay. So there wasn't like a rule, like
16	a list of rules?
17	A. No.
18	Q. Okay.
19	MS. WYNKOOP: Do you mind if we just take
20	a quick comfort break?
21	MS. FRANCHI: Yes. Sure. I don't even
22	know how long I've been yapping for.
23	MS. WYNKOOP: No. It's only been an
24	hour. I just drank a lot of coffee.
25	THE VIDEOGRAPHER: Going off the record

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 1
     at 10:03 a.m.
 2
                   (Recess)
 3
                   THE VIDEOGRAPHER: We are going back on
                  The time is 10:15 a.m.
 4
     the record.
 5
     BY MS. FRANCHI:
 6
                  Mr. Weaver, are you good to go?
           Q.
 7
                  Mm-hmm.
           Α.
 8
           Q.
                  Okay.
 9
           Α.
                  Yes.
10
                   So I think we had ended with talking a
           0.
11
     little bit about children being free to leave.
12
     had mentioned Mr. Cross tried to leave maybe two times
13
     that you remember.
14
           Α.
                  Yes.
15
                  And that, I quess, and correct me if I'm
           0.
16
             I'm just trying to gather my train of thought
17
     from where we left off in that the mentors were kind
18
     of the ones who were directly responsible for each of
19
     the residents day-to-day. That you weren't standing
20
     over them all day telling them what to do; correct?
21
           Α.
                   That's correct.
22
                          If I ever misstate anything,
           0.
                   Okay.
23
     please correct me. So moving on a little bit to
24
     discipline, you know, discipline or consequences or
     whenever the boys were not, I guess, adhering to the
25
```

1	standards of Liberty Ridge or behavior, who was in
2	charge of individual discipline or consequences for
3	each of the individual residents?
4	A. The mentor
5	Q. Or did it depend?
6	A made sure that it got carried out.
7	Q. Okay.
8	A. If there was an infraction, they would
9	sit down with the boy and discuss what's going wrong.
LO	If it got involved, then I would come on. They would
L1	ask for me to come around to help resolve the issue.
L2	Q. Okay. So they were the first level of
L3	dealing with it?
L4	A. Yes.
L5	Q. And then they would come to you?
L6	A. Yes.
L7	Q. Okay. Was there ever a talk with the
L8	mentors, either you personally or that you're aware of
L9	from any of the members of the board, telling the
20	mentors how to handle discipline with the boys?
21	A. Yes.
22	Q. Okay. What were some of those
23	discussions, if you remember?
24	A. What to do when the boy became angry or
25	didn't want to do what was asked of him.

1	Q. Okay. What were they or what were the
2	mentors told or how were they supposed to handle these
3	situations?
4	A. Well, if there was an infraction, the
5	first thing that they were asked to do was sit down
6	and talk to the boy, and most of the time that's all
7	they did.
8	Q. And what if that didn't work?
9	A. Then you would have him write some
10	sentences.
11	Q. And what were these what kind of
12	sentences were these? Were they like were they
13	based on their Bible studies? Was it something else?
14	A. Other things like I am a happy boy when
15	and what it takes to enjoy life. What do you feel it
16	takes to enjoy life.
17	Q. And if how long would that go on for?
18	A. However long it took.
19	Q. Okay. Until I guess what was the
20	deciding factor when when you say how long it took,
21	when would the mentors be able to decide, okay, enough
22	is enough or you've learned whatever you need to
23	learn? What was that kind of determination?
24	A. Whenever they corrected their attitudes
25	or their say okay, we're ready to go back to work.

1	Q.	Okay. So they would try to talk to them
2	first. They	would work on writing sentences
3	Α.	Mm-hmm.
4	Q.	to kind of correct their behavior,
5	their attitu	de.
6	Α.	Mm-hmm.
7	Q.	What if that didn't work?
8	Α.	Then they would write an essay of some
9	sort. All k	inds of topics. I am happy when. If I
LO	was a rock i	n the middle of a stream. Something to
L1	help them st	ructurally.
L2	Q.	Okay.
L3	Α.	When I see clouds, I think of. I don't
L4	know if ther	e's any I don't know if I have any
L5	copies of th	at, but that came in.
L6	Q.	Okay.
L7	Α.	I had a whole list of essay suggestions
L8	that we work	ed from.
L9	Q.	So they were kind of like self-directed
20	essays?	
21	Α.	Mm-hmm.
22	Q.	Okay. So I guess if the essay writing
23	didn't work,	then what would happen? So I guess what
24	I'm kind of	getting at is it seems like there's a bit
25	of structure	of how to handle it?

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1	A. Oh, yeah. The next would be maybe wash	
2	dishes or some other extra domestic chore.	
3	Q. Okay. And then what would happen after	
4	that if that didn't work?	
5	A. Then it would be probably running, and w	7e
6	run with them most of the time.	
7	Q. Okay. You personally?	
8	A. Oh, yeah.	
9	Q. Really?	
LO	A. I remember the one time the boy didn't	
L1	want to run. He didn't want to run. I said well,	
L2	I'll run with you. We run. After a bit he looked	
L3	over at me, and he says this is kind of fun. His	
L4	attitude changed.	
L5	Q. Okay.	
L6	A. I said then we're done. I could give yo	u
L7	a lot of stories like that.	
L8	Q. So after how long, I guess, would you	L
L9	decide that they would run for or, again, would it	
20	depend?	
21	A. It depended.	
22	Q. Okay. If it got to the point where the	
23	boy was running and he was exhausted, but his attitud	le
24	hadn't changed, would he keep running? How would that	ιt
25	work?	

1	A. No. We'd stop for a break.
2	Q. Okay.
3	A. Get a drink, wash your hands and face.
4	My wife often had chocolate milk, cookies, refreshment
5	there. If it was cold, it was hot chocolate. Always
6	had refreshment.
7	Q. What happened if the running didn't work?
8	A. Then we went to some other thing. We dug
9	some holes for fence posts because we needed a fence
10	for the cattle, and I would help or the mentor would
11	help.
12	Q. So then that's when it would escalate to
13	kind of more going back to doing physical labor?
14	A. Yeah.
15	Q. Okay. Did you oversee all consequences
16	that were, I guess, administered or were there times
17	that you weren't involved?
18	A. If I wasn't there, I didn't do it. But
19	yes, if I was there, I knew what was going on although
20	I was not always directly involved.
21	Q. Okay. Do you recall the names of the
22	individuals who kind of took over your role as house
23	parents on the weekend so you had a break?
24	A. When I left, I left for the weekend.
25	When I was done.

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1	Q. Good man.
2	A. That's up to them.
3	Q. More people should have that attitude.
4	Were they always the same people? Do you know?
5	A. No.
6	Q. Or was it just anybody that could fill
7	in?
8	A. Anybody could fill in.
9	Q. Okay. Do you know, and you may not have
10	this knowledge, but the people who would fill in on
11	the weekends, were they also trained or were they just
12	there to just be a warm body in the home?
13	A. They were lightly trained.
14	Q. Okay. What does that mean?
15	A. They knew what the schedule was supposed
16	to be like and who was supposed to do what. Like
17	who's in charge of the dishes, who was in charge of
18	laundry. They knew all that.
19	Q. Okay. So they weren't they didn't go
20	through the full kind of training that you were
21	talking about before?
22	A. No, no.
23	Q. Okay. So on the weekends let's say if
24	there was discipline or some type of a consequence,
25	you weren't necessarily there then to oversee it

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1	because you we	ere taking your time off?
2	A. T	That's correct.
3	Q. C	Okay. So the house parents that were
4	there on the w	weekends may not have handled it the same
5	way that you d	lid?
6	A. I	That's correct.
7	Q. C	Okay. Do you know excuse me what
8	the Liberty Ri	dge policy or just the understanding of
9	when physical	restraint can be used?
10	A. D	Oo I what? Say that again.
11	Q. W	When could physical restraint be used on
12	the children w	when they were on the Liberty Ridge
13	property, if a	at all?
14	A. W	When they became violent.
15	Q. C	Okay. Do you know or was there any sort
16	of training on	n how to handle physical restraint with
17	children?	
18	A. I	I had some training.
19	Q. C	Okay. What kind of training?
20	A. W	What to do with an angry boy.
21	Q. C	Okay.
22	A. B	Basically, you know, you take him, but
23	you don't hold	d his body. Only hold his arms.
24	Q. C	Okay.
25	A. D	Oo not restrict his breathing, his

72 1 just keep him from hurting himself to protect the 2 others around him. Was there ever a time when there was a 3 Q. determination like you said that a boy became violent 4 or became agitated enough to be physically restrained 5 that the police were called or mental health services 6 were called? 7 The only time is whenever he run off that 8 Α. 9 then we needed to report it. 10 Did that ever happen when you were Q. Okay. 11 there? 12 There was one time. I don't Α. Yes. 13 recall. 14 And by the time -- and just so you know, 0. 15 if we're ever talking and it doesn't involve my 16 clients, I'm not going to ask specific names of any of 17 the other children that were there. So if it's not 18 Robert Miller or David Cross, if it was anything that 19 we're talking involves another child, you don't have 20 to refer to them by their full names. 21 I know that's something that would be 22 objectionable anyway. I'm not going to push that 23 button, so you can choose a way to refer to them like 24 initials or just the boy so just to kind of clear that 25 up.

1		So anyway, do you recall, like I was
2	asking, a tir	ne when you were at Liberty Ridge that a
3	boy either be	ecame violent or ran off, and you had to
4	call the poli	ice or call the authorities?
5	Α.	I don't recall who called the police, but
6	the police ca	ame out and talked to David.
7	Q.	Oh, it was David?
8	Α.	Yes. It was David.
9	Q.	Okay.
10	A.	They came out and talked to him. He was
11	very angry.	Yeah, he talked to him pretty straight.
12	Q.	Do you recall how long David was off the
13	property?	
14	A.	No. I do not know.
15	Q.	Okay. If you are able to approximate,
16	was it a matt	er of minutes? Was it hours? Was it
17	days?	
18	A.	Oh, just a matter of minutes or hours.
19	Q.	Okay. So it wasn't several days he was
20	missing?	
21	A.	No, no.
22	Q.	Okay. Was there any other time that you
23	remember a cl	nild, well, at least while you were at
24	Liberty Ridge	e, where he became so distressed that he
25	needed to be	either seek medical attention or police

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1	intervention	
2	Α.	No.
3	Q.	Okay. Were the mentors the ones who
4	would need t	o physically restrain the boys when they
5	would become	angry or would it be you or would it be,
6	I guess, any	body in charge who was there when it
7	happened?	
8	Α.	Yes.
9	Q.	Okay. And were the mentors trained in
10	how to handl	e this?
11	Α.	Yes.
12	Q.	Okay. And, again, as we were talking
13	about, there	could have been times that the mentors
14	administered	this type of restraints on the children
15	when you wer	en't there, say, on the weekends or if you
16	were off the	property?
17	Α.	I told them the first when the boy
18	becomes angr	y and becomes starts to become agitated
19	and violent,	just have the boy sit for a while.
20	Q.	Okay.
21	Α.	And that often worked.
22	Q.	Okay.
23	Α.	Just sit until they're ready. Raise
24	their hand w	hen they're ready to talk.
25	Q.	Okay. That was your rule?

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1	A. Mm-hmm or let us know in some way.
2	Q. Okay. Do you know if the other house
3	parents that would fill in would handle things
4	differently from you or did you have no idea?
5	A. I have no idea.
6	Q. When the children were at Liberty Ridge,
7	did they have access to phones or any sort of outside
8	communication?
9	A. They could use a phone with permission.
10	Q. Okay. How often could they use the phone
11	with permission?
12	A. They could call their parents. I think
13	it was once a month. I hardly recall anymore.
14	Q. Okay. And when the children would call
15	their parents, was there some type of supervision?
16	Was somebody, you know, listening on the other phone?
17	Were they sitting with them? How did that work?
18	A. We were listening on another phone.
19	Q. Okay. And when you say we, it could have
20	been you or any other mentor?
21	A. That's correct.
22	Q. Okay. What were I'll just say
23	generally you or the mentors, what were you listening
24	for when the children were on the phone?
25	A. Just to have an accurate to hear what
	1

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1	they were saying so that we knew what was going on.
2	Q. Okay. Did you or did the board
3	communicate to the mentors what to listen for?
4	A. Just listen.
5	Q. Okay. At any point did you or the
6	mentors that you're aware of ever intervene in a call
7	and say you can't talk about this or something?
8	A. No, no.
9	Q. Okay. In your recollection, did you or
LO	the mentors ever tell the children these are certain
L1	things that you have to talk about on the phone?
L2	A. No.
L3	Q. Okay. But you weren't there for all the
L 4	phones calls?
L5	A. No.
L6	Q. Okay. So I'm sure there were plenty
L7	where just the mentors were listening?
L8	A. That's correct.
L9	Q. Okay. And just to be clear, so your wife
20	wasn't involved in any of like the direct supervision
21	of the labor or the phone calls or the consequences,
22	anything like that?
23	A. No.
24	Q. Okay. What about visitation? Did the
25	children have time for visitors like family members or

		77
1	parents or a	
2	Α.	Yes.
3	Q.	Okay. Do you recall generally how often?
4	A.	There was a period at the beginning they
5	did not have	contact at home, but I think it was six
6	weeks I'm	not sure on that when the first visit
7	was allowed.	
8	Q.	Okay. So they had kind of a breaking-in
9	period then?	
10	Α.	Yes. They had a breaking-in period.
11	Q.	Okay. You said it was about six weeks?
12	Α.	I think that. I'm not all together sure
13	on that.	
14	Q.	Okay. But approximately?
15	Α.	Approximately.
16	Q.	So during that, I guess we'll call it
17	kind of sett	ling in six weeks, the boys weren't
18	allowed to ha	ave family members come visit?
19	Α.	No.
20	Q.	Could they have phone access?
21	Α.	Yes.
22	Q.	Okay.
23	Α.	Wait. I'm not sure on that.
24	Q.	Okay. When the boys did have visitors,
25	was it limite	ed to just direct family members?

		78
1	Α.	Yes.
2	Q.	So they couldn't just have their friends
3	come?	
4	Α.	No.
5	Q.	When family members would come and visit,
6	was there a	protocol or structure to where they would
7	visit, you k	now, what would go on, how long they would
8	be there, or	could they come and go as they pleased?
9	Α.	Come and go as they pleased as long as
10	they stayed	on the property.
11	Q.	Okay. And were the mentors with the boys
12	for all of t	hese visits?
13	Α.	Somebody was around somewhere, not always
14	right up aga	inst them, but they were within earshot.
15	Q.	So somewhere?
16	Α.	Yeah. The mentors might be over in the
17	corner doing	a puzzle, and they're over here visiting,
18	something of	that nature.
19	Q.	Okay. So they were just generally in the
20	area to keep	an eye on them at all times?
21	Α.	Generally, yeah.
22	Q.	Okay. Was there any time when the boys
23	were complet	ely without any adult supervision or
24	mentors or a	nybody?
25	Α.	No, not that I'm aware of.

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1	Q. Okay. Except for, I'm assuming, when
2	they used the restroom or showered?
3	A. Yeah. That's correct. Yeah.
4	Q. Okay. Were the children allowed to write
5	or receive written communication?
6	A. Yes.
7	Q. Okay. Was there any limitation to
8	that?
9	A. I don't think so.
10	Q. Okay. Any written communication that
11	went out or was received, was that all reviewed by the
12	mentors?
13	A. Yes.
L4	Q. Okay. And what was the purpose of
15	reviewing the outgoing and incoming communications?
16	A. Just to get the feel for the whole
17	situation.
18	Q. Okay. Did you give or did anybody give
19	the mentors any direction on what to look for in the
20	written communication to say either, you know, that
21	can't be said or you can't receive this?
22	A. No, no. They look for negativism, that
23	kind of thing.
24	Q. Okay. Do you recall any time that you
25	monitored the incoming or outgoing communications?

		80
1	Α.	Yes.
2	Q.	Okay. So sometimes you did?
3	Α.	Yes. Sometimes I did.
4	Q.	But not all the time?
5	Α.	No, not all the time.
6	Q.	That would have been a lot?
7	Α.	Yeah.
8	Q.	So that would have been left up to the
9	mentor's dis	cretion?
10	Α.	Yes.
11	Q.	What would happen if the children were
12	writing to,	say, their parents or I guess anybody
13	outside the	program and were voicing displeasure about
14	the program?	Was that allowed or was that something
15	that they we	ren't allowed to do?
16	Α.	They were allowed. I don't think any of
17	them ever di	d.
18	Q.	Okay. Do you know if the mentors
19	communicated	with them about what they could or could
20	not write or	were you not there for those?
21	Α.	No, no. They did not dictate what they
22	should write	at all.
23	Q.	Okay. But you weren't with them all the
24	time when th	ey were doing this?
25	Α.	No.

	81
1	Q. Okay. So a lot of times when you and I
2	are talking about what the mentors did or didn't know
3	are just generally what you've observed but not
4	everything because you didn't
5	A. That's correct.
6	Q. You didn't see them all the time?
7	A. That's correct.
8	Q. Okay. So I'm going to have you turn to
9	Page 72. It's about maybe a third of the way in a
10	little bit more. Just let me know when you get there.
11	That would be LRF-72.
12	A. 72?
13	Q. Mm-hmm.
14	A. Okay.
15	Q. Do you recognize this document?
16	A. Yes.
17	Q. And what is it?
18	A. It's the handbook of operating.
19	Q. And do you know who it was that created
20	this policy manual?
21	A. I do not know.
22	Q. Was this something that in your knowledge
23	was in place when Liberty Ridge began?
24	A. No. This came on the scene down the road
25	a piece. I was not involved in this.

1	Q. Okay. Do you have any idea when you say
2	down the road, was it two years ago? Was it ten years
3	ago?
4	A. I have no recollection.
5	Q. Okay. Are you aware of when Liberty
6	Ridge began in about 2011, was there any sort of
7	written policy manual or anything like that?
8	A. Yes.
9	Q. Okay. But it wasn't this one?
10	A. It wasn't this one.
11	Q. Okay. Do you know if there is still a
12	copy of that anywhere or where that would be
13	maintained?
14	A. It should be there yet, yeah. It's still
15	in place.
16	Q. Okay. So the one that's in front of you
17	specifically goes from Page 72 to I believe 81. If
18	you just take a look through that and just confirm
19	that this was not the policy manual that was in place
20	in 2011.
21	A. Say that again.
22	Q. In 2011 to 2014.
23	A. I don't remember.
24	MS. WYNKOOP: I will just note on the
25	record that I will search for something if there is a

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1	different one in existence.
2	MS. FRANCHI: Okay. Thank you. Can I
3	take like a ten-minute break or maybe five minutes if
4	that's okay?
5	MS. WYNKOOP: Sure.
6	MS. FRANCHI: Can we go off the record?
7	THE VIDEOGRAPHER: We are going off the
8	record. Time is 10:35 a.m.
9	(Recess)
10	THE VIDEOGRAPHER: We are back on the
11	record. Time is 10:43 a.m.
12	BY MS. FRANCHI:
13	Q. Okay. So I believe where we left off is
14	I showed you a copy of the handbook of standard
15	operating policy that's Bates stamped LRF-72 to
16	LRF-81. And correct me if I'm wrong, Mr. Weaver, you
17	said that this was not the policy manual that was in
18	place from 2011 to 2014?
19	A. That is correct.
20	Q. Okay. And you had said to me before that
21	when we were taking the break that although you don't
22	have the old policy manual in front of you, you
23	generally remember some of the concepts?
24	A. Oh, yes, yes.
25	Q. Okay. So the old policy manual that we

[
1	don't have a copy of right now just to be clear,
2	I'm not referring to the one that's sitting in front
3	of me who created that policy, the old policy
4	manual?
5	A. The board.
6	Q. Okay. So it would have been the Liberty
7	Ridge committee that then became the board?
8	A. Yes.
9	Q. So you helped create it?
10	A. Yes.
11	Q. Did all of the board members participate
12	in some way?
13	A. Yes.
14	Q. Okay. Do you know was this policy manual
15	something that was disseminated to the parents or was
16	this something that was kind of kept in-house as
17	reference for the staff?
18	A. If I recall correctly, the parents had a
19	copy of it.
20	Q. Okay.
21	A. But I am not a hundred percent sure. I
22	am almost a hundred percent sure.
23	Q. Okay. Do you remember at least again
24	from 2011 to 2014 when a child was placed at Liberty
25	Ridge, what documents, if any, did the parents

1	receive?
2	A. They had the questionnaires. They would
3	have the guidelines. Parents had a questionnaire to
4	fill out. So they would have had the guidelines.
5	They would have had the questionnaires from the boy
6	and the parents, and also they would have had the
7	power of attorney papers were given to the parents.
8	They signed them. Medical consent forms so we could
9	take care of any medical needs.
10	And we also had a paper that said if the
11	parents had a restriction on anything, if they did
12	want their boy to be involved in any area of the
13	project there.
14	Q. Okay.
15	A. In other words, if they had allergies,
16	they would say the boy has allergies. We don't want
17	him inhaling chicken dust, so they had that power as
18	well.
19	Q. Okay. When discussing with the guardians
20	or the parents of the boys before putting them in
21	Liberty Ridge, were you involved in those
22	conversations or was that somebody else?
23	A. Mostly someone else.
24	Q. Okay. Do you know who it would have
25	been?

		9.6
1	Α.	No. I don't know.
2	Q.	Okay. So you don't know what was told to
3	the parents	when they were interviewing them about
4	bringing the	boy?
5	A.	No. I might have heard a few. I think
6	it was mostl	y the chairman.
7	Q.	Mr. Brubaker?
8	A.	Yes, and maybe a sprinkling of somebody
9	else that was	s available.
10	Q.	Okay. Do you recall being involved in
11	that convers	ation with David Cross before he came to
12	Liberty Ridge	e?
13	A.	I don't recall.
14	Q.	Okay. Did you if you recall, do you
15	recall having	g any contact with Mr. Cross before he
16	came to Libe	rty Ridge?
17	A.	No. I had no contact with him.
18	Q.	Okay. Were you familiar with or I
19	believe M	r. Cross was also Mr. Bates when he was
20	within the co	ommunity. Did you know his parents or his
21	guardians be	fore he came to Liberty Ridge?
22	A.	Not very well at all.
23	Q.	Okay.
24	A.	I might have met them a time or so at
25	church. But	other than their name, I wouldn't have

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1	even known where they lived.
2	Q. Okay. So you don't remember you said
3	you don't remember if you were involved in his, I
4	guess, recruiting process?
5	A. No.
6	MS. WYNKOOP: Objection to form. You can
7	answer.
8	A. Did I do something wrong?
9	MS. WYNKOOP: No, no, no.
10	MS. FRANCHI: No, no.
11	BY MS. FRANCHI:
12	Q. So I just want to be clear. Earlier you
13	had said that you don't recall if you were involved in
14	Mr. Cross or Mr. Bate's recruitment process; correct?
15	A. Yes.
16	Q. Okay. So generally within the new policy
17	manual it mentions that Liberty Ridge is a, quote, a
18	farm approach and a, quote, intense spiritual
19	atmosphere. Is that something that was consistent
20	prior to this policy manual when Liberty Ridge was
21	created?
22	A. Yes.
23	Q. What does it mean to you when they say a
24	farm approach?
25	A. A farm environment.

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1	Q. 2	And that would be just the chores, the
2	work, things	like that?
3	A. (Garden, lawn, cleaning, eating.
4	Q. I	Eating a lot?
5	A. 3	Yeah.
6	Q. <i>I</i>	And does that also include the side
7	projects or th	ne side labor? Was that that was all
8	considered to	be in the farm approach like building
9	gates, things	like that?
10	A. 3	res.
11	Q. (Okay. And when they say intense
12	spiritual atmo	osphere, does that encompass the Bible
13	studies, thing	gs like that?
14	A. 3	res.
15	Q. (Okay. So bear with me, some of my pauses
16	again. I'm tr	rying to make sure I can go through some
17	things that we	ere in the policy manual specifically.
18	V	Within the new policy manual it discusses
19	boys having er	notional or behavioral difficulties that
20	have not been	resolved in a normal home setting. Is
21	that a theme t	that also was true when Liberty Ridge
22	opened until 2	2014?
23	A. 3	Yes.
24	Q. (Okay. And then we talked about it a
25	little bit bef	fore, but what do emotional and

	89
1	behavioral difficulties kind of mean within the
2	context of Liberty Ridge and its admissions?
3	A. Relationship to others, relating to
4	others, working together with others.
5	Q. Okay. Does this also encompass mental
6	health diagnoses and things like that?
7	A. Yes.
8	Q. Okay. Are you aware of when boys would
9	enter the program if any of them had a mental health
10	diagnosis like bipolar disorder or something like
11	that?
12	A. No.
13	Q. Okay. That wasn't something that was
14	asked?
15	A. No.
16	Q. Okay. And, again, pardon my ignorance.
17	I'm just not familiar. Within your community are
18	there, say, if a boy does have bipolar disorder or
19	some other I just keep saying bipolar just because
20	it's the first thing that pops in my head, but we'll
21	just run with that.
22	If a boy does have a mental health
23	diagnosis, are they taken to, I guess, sort of like
24	what we consider like the traditional doctor,
25	psychiatrist, other doctors within your community or

		90
1	does it just depend	
2	A. It dep	ends. But if it was shown, mostly
3	we took them to a p	sychiatrist.
4	Q. Okay.	So to be clear then, if a boy came
5	into Liberty Ridge	with mental health diagnoses, the
6	staff wouldn't nece	ssarily ask or it wouldn't be told
7	to them or how does	that work?
8	A. We did	not have anybody come in with a
9	known psychological	problem.
LO	Q. Okay.	
11	A. It was	obvious, but it was not stated as
12	such.	
13	Q. Okay.	So within the programing of
14	Liberty Ridge, when	it says a therapeutic setting, it
15	doesn't mean therap	y in the sense of there is a
16	licensed therapist	on the property?
17	A. That's	correct.
18	Q. Okay.	Are you aware of any boys coming
19	into the program wh	o were on any sort of mental health
20	medications?	
21	A. I was	not aware of it.
22	Q. Okay.	Were the mentors or the staff
23	trained in how to d	eal with boys who were on any sort
24	of prescription med	ication, if you know?
25	A. I don'	t know.
	1	

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1	Q. Okay. So, again, this goes in the same
2	vein. If you don't know, please let me know. If a
3	boy was on some sort of prescription medication, would
4	that be up to the mentors to make sure they received
5	it appropriately?
6	A. Yes.
7	Q. Okay. Were there any specific guidelines
8	or rules that the mentors had to follow that were
9	written down in the policy manual from 2011 to 2014?
10	A. That the mentors followed?
11	Q. Mm-hmm.
12	A. What was in the handbook, that's what was
13	there.
14	Q. There were rules written down?
15	A. Yes.
16	Q. Okay. Was there any that you can
17	remember, was there any level of either discipline or
18	correction for mentors who overstepped their bounds or
19	acted improperly?
20	A. No. I marveled at that.
21	Q. Okay.
22	A. They responded very well.
23	Q. Okay. So you did have a way of
24	correcting them?
25	A. Oh, yeah, yeah.

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1	Q. Who was that, if you can remember? I
2	guess to rephrase, how would you deal with it if you
3	heard that a mentor was acting improperly?
4	A. I don't know if I had any examples of it.
5	Q. Okay. If I guess hypothetically then, if
6	there was a mentor acting improperly or that needed
7	correction, what were you supposed to have done or
8	what was, I guess, the structure of how to deal with
9	that?
10	A. If there was a mentor acting wrong, I
11	would pull the mentor aside and give him correction.
12	Q. Okay. And this would have been from your
13	own observations if they were acting wrong?
14	A. Yes, yes.
15	Q. Okay. So you never yourself saw what you
16	seen to be the mentors acting improperly?
17	A. No.
18	Q. Okay. And it wasn't reported to you that
19	they were acting improperly?
20	A. No.
21	Q. Okay. But, again, you didn't supervise
22	them 24 hours a day?
23	A. That's correct.
24	Q. Okay. So hypothetically speaking, things
25	could have happened that you just weren't aware of?

	93
1	A. Yes, but I know it didn't happen.
2	Q. Do you remember you may not. Do you
3	remember any of the names of any of the mentors from
4	2011 to 2014?
5	A. Linden Graham. Chris Ebersole.
6	Q. Okay. Is there anything that you
7	remember? Anybody else that you remember or are those
8	the only names that pop in your head?
9	A. That's the first ones that popped into my
10	head. It's too long ago.
11	Q. Now, within the new policy manual that
12	was provided to me, it talks about there being
13	spiritual and religious indoctrination within Liberty
14	Ridge.
15	Was that a term that was used in the old
16	book that you remember or is that something you don't
17	recall?
18	A. I don't recall.
19	Q. Okay. So I guess generally going in that
20	same line, do the boys have a choice of what religion
21	they practice within Liberty Ridge or are they just
22	taught the Eastern Pennsylvania, I guess, standards of
23	worship?
24	A. We would have taught them that, but the
25	choice was totally theirs.

	94
1	Q. Okay. The individuals who would teach
2	the morning Bible studies that you had mentioned
3	earlier, and, again, I apologize. I don't recall.
4	You said there was somebody who came in to teach that
5	or did you handle that or the mentors?
6	A. The mentors taught that in the morning.
7	Q. Okay. Were they under the direction of
8	anybody?
9	A. My direction.
10	Q. Okay. Was there ever a time that any
11	religious leaders were brought into Liberty Ridge for
12	the boys for any sort of worship or anything?
13	A. Yes. How that was, I'm not all together
14	sure, but I know there was some there.
15	Q. Okay. Would they just come from local
16	parishes?
17	A. Local yeah, local. Aaron Martin came
18	from Hartleton once a week.
19	Q. Okay. And is that an Eastern
20	Pennsylvania parish or is that something else?
21	A. Yes, it is.
22	Q. Okay. Do you recall if in the old policy
23	manual there was any direction about how to utilize
24	consequences with the boys?
25	A. No. I don't think.

1	Q. Okay. In your recollection when were
2	consequences, I guess, performed? Could it be any
3	time or was it only during like normal work hours?
4	A. Any time, but mostly during work hours.
5	Q. Okay. Was there ever a time that you
6	recall while you were at Liberty Ridge that
7	consequences were performed, you know, after dinner or
8	overnight or for any extended period of time?
9	A. Yes.
10	Q. When how many times did that happen?
11	A. Very few.
12	Q. Okay. And what were those circumstances
13	that you can recall? Like what were the circumstances
14	of the consequences being performed, I guess, either
15	overnight or after work hours?
16	A. Anger.
17	Q. Okay. If you can elaborate a little bit.
18	If you could give me one example of again, if it's
19	not one of my clients, you don't need to give me a
20	name of when a boy's behavior caused him to suffer
21	or to have to perform consequences overnight or for an
22	extended period of time?
23	A. Well, if in the evening he was ready for
24	bed or time for bed and he would say I'm not doing it,
25	well, then we'll just go run a little bit until you're

	96
1	ready to do it.
2	Q. Okay. In your time at Liberty Ridge, do
3	you remember there being a time where the boy's
4	behavior or for whatever reason it escalated to the
5	point where they were then put to the physical labor
6	part of consequences overnight or after work hours?
7	A. There was a few times of that, yes.
8	Q. Okay. If you could, the ones that you
9	remember, if you can just tell me a little bit about
10	them.
11	A. That's whenever they would have dug. You
12	know, we'd set up a light, dig a hole.
13	Q. Okay.
14	A. A fence post hole
15	Q. Okay.
16	A for fence posts.
17	Q. And who determined how long this would go
18	on for?
19	A. That was the staff.
20	Q. Okay. The mentors generally?
21	A. The mentors were all involved there.
22	Q. Okay. Would you be involved in that?
23	A. Yes.
24	Q. Okay. So you would have an idea that it
25	was going on?

	0.7
1	A. I knew it was going on.
2	Q. Okay. During the nighttime consequences,
3	things like that, was it generally the type of labor
4	of, you know, digging a hole or things like that or
5	were they ever at the pallet shop or at the sawmill or
6	something like that?
7	A. No. It was always digging a hole, not
8	related to the work chores at all.
9	Q. Okay. But it was so it was like
10	digging a hole for fence posts or a drain or something
11	like that?
12	A. That's correct. Yes.
13	Q. Okay. During that time, do you recall
14	the longest that somebody had worked kind of overnight
15	or do you not remember?
16	A. I do not remember that.
17	Q. Okay. Would there always be a mentor out
18	watching them or would you just kind of generally know
19	that they were
20	A. No. They were supervised.
21	Q. Okay.
22	A. And often helped.
23	Q. Okay. Are you aware of whether the
24	mentors restricted any food or water to the boy while
25	he was performing these consequences?

		98
1	A. No	o. We were very careful that they had
2	food and water	•
3	Q. Ol	kay.
4	A. If	f it was hot, they had water and juice.
5	If it was cold	, they had hot drinks.
6	Q. Ol	kay. What about food?
7	A. Fo	ood, they would have some food during
8	the night, too	. I remember my wife bringing a
9	sandwich out,	cookies out, doughnuts out.
10	Q. Ol	kay. Are you aware of whether any of
11	these overnight	consequences occurred when you were
12	gone for the we	eekend or not on the property? Like
13	would it have l	peen reported to you or you just don't
14	know?	
15	A. It	would have been reported to me.
16	Q. Ol	cay.
17	A. Bu	at I'm not aware of any.
18	Q. Ol	kay. So you don't know for sure?
19	A. I	don't know for sure.
20	Q. Ol	kay. What were some of the other, I
21	would say, phys	sical consequences? You had mentioned
22	digging post ho	oles, digging a drain. What were some
23	of the other,	I guess, physical consequences that the
24	boys would have	e to do?
25	A. We	e would have the tree stump that was

1	99 in our driveway or off to the side of the driveway, we
2	would've dug at that. It was light. Place to work
3	close to the house. We could go for refreshment. We
4	dug at it for a while in the evening, you know.
5	Q. What about were there ever consequences
6	of like breaking rocks or sawing wood, things like
7	that?
8	A. Yes.
9	Q. Okay. Explain them to me a little bit
10	about breaking the rocks.
11	A. We had a five gallon bucket that had inch
12	size holes on it. And we gave them a face shield
13	protection for their face, a hammer, and they had to
14	fill a bucket with crushed rocks.
15	Q. And what was the purpose of that?
16	A. It was to help them to break a bad habit.
17	Q. Okay.
18	A. It was typical. Give an illustration of
19	this needs and I remember the boys saying I'm going
20	to break this habit, and, you know, they were
21	determined, and mostly that was very positive.
22	Q. Okay. What about like sawing wood or
23	anything like that? I know the sawmill is different
24	from cutting and sawing wood and firewood.
25	A. I think there was one time where a boy

		100
1	I don't think it was David or Robert that saw	100 ed a
2	chunk of wood in the evening.	
3	Q. Okay. And were there any other type	es of
4	consequences that weren't necessarily labor, but	were
5	also physically intensive? You said there was	
6	running. Was there anything else like dragging	items
7	or anything like that?	
8	A. There was, not when I was up there,	
9	dragging some chains.	
LO	Q. Okay.	
L1	A. Very little.	
L 2	Q. Okay.	
L3	A. Almost that was almost never used	d when
L 4	I was there anyway.	
L5	Q. Okay. So it may have been afterward	ls?
L6	A. That's right.	
L7	Q. But you don't remember it happening	when
L8	you were there?	
L9	A. I don't recall. Maybe once or so.	
20	Q. Okay. And it wasn't David or Rober	i, if
21	you remember?	
22	A. I don't recall, but I don't think so	٥.
23	Q. Okay. What would happen if a child	had
24	stayed up during the night to perform any	
25	consequences? Say it was in the morning hours,	low

	101
1	would their sleep schedule then change? Would they
2	still have to get up at 6 a.m. or would they sleep
3	later? How would that work?
4	A. Mostly they slept later.
5	Q. Okay.
6	A. To get some rest.
7	Q. Okay. Do you recall any time where
8	either David or Robert was kept up at night for a
9	consequence?
10	A. Yes. David did. I remember working with
11	him digging a hole one night.
12	Q. Okay.
13	A. And as he dug, his attitude changed. And
14	I remember it was cold, and we sat I was digging
15	with him. We sat on the edge of the hole and just
16	talked. It was beautiful.
17	Q. Okay.
18	A. Beautiful.
19	Q. And you think this happened maybe one
20	time?
21	A. At night?
22	Q. Yeah. That you can remember.
23	A. That I recall that's that's all I
24	recall at presently.
25	Q. Okay. And this is just another general

1	question. I know David was there for several years.
2	Robert wasn't there as long.
3	A. No.
4	Q. But there were obviously times when they
5	were with their mentors or at Liberty Ridge when you
6	weren't there; correct?
7	A. That's correct. Yeah.
8	Q. You went away every weekend just to get
9	some time to yourself?
10	A. Yeah. We needed time alone.
11	Q. Where did you usually go?
12	A. Home.
13	Q. Oh, okay. So you maintained another
14	home?
15	A. Yes.
16	Q. Okay. Okay. So are you aware of how
17	often David had to perform any physical consequences?
18	A. How often?
19	Q. Mm-hmm.
20	A. It varied quite a bit.
21	Q. Okay.
22	A. Yeah. I would say most of the time he
23	did very well. He did well, but it would show up once
24	in a while just like any normal child.
25	Q. Were you aware of whether David had any

		103
1	mental heal	th diagnoses?
2	Α.	No, not when he came.
3	Q.	Okay. Were you aware of whether David
4	was on any	prescription medication when he came to
5	Liberty Rid	ge?
6	Α.	I don't recall.
7	Q.	Okay. Now, we talked a little bit
8	earlier abo	ut using physical restraint on the boys for
9	various rea	sons. Was this something that, if you
LO	remember, t	hat would have been in the old policy
L1	manual?	
L2	Α.	I don't think so.
L3	Q.	Okay. So it wouldn't have been written
L 4	out?	
L5	Α.	I don't think so.
L6	Q.	Okay. In your experience at Liberty
L7	Ridge, do y	ou ever recall any of the boys being
L8	restrained	in any way other than just by using their
L9	hands?	
20	Α.	No, no. We never restrained our boys
21	with anythi	ng but our hands.
22	Q.	Okay. Were there ever any times that you
23	were aware	that either Mr. Cross or Robert or any of
24	the boys we	re restrained in any way when you weren't
25	at Liberty	Ridge or

		10	4
1	Α.	No.	
2	Q.	again, you don't know?	
3	Α.	We were very stern on that. They do not	
4	restrain the	m with anything but your hands.	
5	Q.	Okay. If Mr. Cross or Mr. Miller or any	
6	witness were	to say that they or any other boy was	
7	restrained b	y any other means than using hands, then	
8	you would di	sagree with that?	
9	Α.	I certainly would.	
10	Q.	Okay. So like rope or zip ties, anything	Γ
11	like that?		
12	Α.	No. We did not use those.	
13	Q.	Okay.	
14	Α.	I remember asking the question to the	
15	board is the	re ever an occasion where you would	
16	restrain a b	oy with a rope or a zip tie, and the board	L
17	said no, don	't do it, and so we didn't.	
18	Q.	Was this ever communicated to the	
19	mentors?		
20	Α.	Yes. Oh, yes.	
21	Q.	Are you aware of any times that the	
22	mentors woul	d have or may have had to either chastise	
23	or take Davi	d or Robert through any of the steps of	
24	consequences	when you weren't there?	
25	Α.	I don't recall.	

		100
1	Q.	Okay. Was there ever a time that you
2	remember mul	tiple individuals or multiple mentors
3	having to ei	ther hold down or restrain David, Robert,
4	or anyone el	se?
5	Α.	One time we had two mentors holding
6	David.	
7	Q.	Okay. Now, at any time when David was at
8	Liberty Ridg	e, do you ever remember taking him or
9	anybody taki	ng him for any crisis treatment or mental
10	health treat	ment, anything like that?
11	Α.	Yes. He went to Dr. Walker at Annville.
12	Q.	Okay.
13	Α.	Several times.
14	Q.	Who's Dr. Walker?
15	Α.	I don't know. Dr. Walker.
16	Q.	And what was the reason for taking him
17	there?	
18	Α.	We had suspicion there was we knew
19	there was so	me issues that needed professional help.
20	Q.	Okay. So you think that he may have been
21	to a psychia	tric or psychological professional?
22	Α.	Oh, yeah, he is. Mm-hmm. Yeah.
23	Q.	Are you aware of whether he prescribed
24	David any me	dication?
25	Α.	Yes, he did.

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1	Q. C	Okay. Do you remember when this was?
2	A. N	Jo. I do not remember.
3	Q. C	okay. Were the boys ever paid for any of
4	the work they	did while at Liberty Ridge whether it be
5	the farm chore	es or the work like building gates or in
6	the sawmill or	pallets or anything like that?
7	A. W	We paid them indirectly.
8	Q. C	okay.
9	A. I	n other words, they could earn points.
10	Q. C	okay.
11	A. A.	and I had in the basement a little store,
12	let's call it,	where there was anything. They had
13	tools. They h	nad books. They had puzzles. They had
14	models. So wi	th good behavior, they could earn and
15	then turn thos	se point into so I guess that's called
16	pay I guess.	
17	Q. C	okay. So if again, I keep referring
18	to the gates h	pecause that was the one company that was
19	talked about w	hen Liberty Ridge was first created.
20	Any knowledge	about the business dealings with the
21	gate company o	or any of the other companies that were
22	kind of doing	business at Liberty Ridge? You said
23	Mr. Nelson wou	ald probably know that?
24	A. Y	Yeah. I wasn't involved in that.
25	Q. C	okay. Do you recall the boys ever using
	1	

1	any sort of	power tools whether it be, you know, a
2	drill or a c	hain saw or
3	Α.	Yeah. They would use the drill.
4	Q.	Okay.
5	Α.	Yeah.
6	Q.	Can you explain the sawmill a little bit
7	to me? I gu	ess when the documents say sawmill, is it
8	like just a	saw or is it like a milling like
9	machinery?	
10	Α.	That came after I left.
11	Q.	Okay.
12	Α.	We had no sawmill on the farm when I was
13	there.	
14	Q.	Okay. So if David's daily moral
15	inventories	mentioned working at the sawmill, like the
16	word sawmill	, that wouldn't mean the sawmill structure
17	that's there	now or could it have been?
18	Α.	No. If I recall correctly, the boys were
19	allowed to w	ork at a local sawmill just to stack
20	lumber.	
21	Q.	Okay. What local sawmill was it?
22	Α.	I don't even remember what it was.
23	Q.	Okay.
24	Α.	It was just very short. Very just a
25	couple occas	ions.

1	Q.	Okay. So it was off the property?
2	Α.	Off the property.
3	Q.	Who would take them there?
4	Α.	One of the mentors.
5	Q.	Okay. Not you?
6	A.	No, not me.
7	Q.	And you said you don't remember the name
8	of it?	
9	A.	No, I do not.
10	Q.	Mr. Martin, would he know maybe?
11	Α.	Possibly.
12	Q.	Okay. When you were there, did the boys
13	ever use cha	in saws for any woodwork?
14	A.	Not for woodwork. They did yes, they
15	did. They c	ut some firewood with some chain saws.
16	Q.	Were there specific children that were or
17	were not all	owed to use the chain saws?
18	Α.	Yes.
19	Q.	Okay. What were the rules or
20	limitations?	
21	A.	For one thing if they had we went
22	through a de	monstration of the correct use of chain
23	saws.	
24	Q.	Okay.
25	Α.	They had to wear chaps. That's leg

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1	protections. And they were to use it in a way the
2	chain saw is to be used. And I think there was a time
3	or so that I took the chain saw from the boy because
4	he was starting to use it wrongly.
5	Q. Okay. Was it limited by age? Were
6	there, I guess, certain ages that weren't allowed to
7	use it or was it just making sure they had the
8	knowledge and proper use?
9	A. Knowledge and proper use.
LO	Q. Okay. Do you recall if the parents or
L1	guardians of the boys would pay a rate to Liberty
L2	Ridge for their children to be there?
L3	A. I think they did. I don't have any idea
L4	what it was.
L5	Q. Okay. Again, that would probably be
L6	within the purview of the treasurer?
L7	A. Yes.
L8	Q. Okay. Do you recall at any time when you
L9	were at Liberty Ridge that there was ever an incident
20	or a behavior or any occurrence that required any sort
21	of government reporting like to Children and Youth or
22	I know you said one time that the police talked to
23	David when he left, but that aside, any other
24	incidents that occurred?
25	A. No.

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1	Q. Okay. Are you aware of any children ever
2	being placed at Liberty Ridge for any, I would say,
3	like homosexual tendencies or sexual-related offenses?
4	A. No, no.
5	Q. Okay. Would children receive
6	consequences if they did not want to participate in
7	any sort of Bible studies or any of the worship
8	portions of Liberty Ridge?
9	A. Were they restricted you say?
10	Q. Would they receive any consequences at
11	any level?
12	A. They might have to write some
13	sentences
14	Q. Okay.
15	A on why they didn't want to.
16	Q. Are you aware of any of the boys
17	receiving consequences for trying to leave Liberty
18	Ridge?
19	A. Not that I recall.
20	Q. Okay. Are you aware of the boys ever
21	being physically restrained in any way, whether it be
22	the passive restraint that you talked about, holding
23	their arms, or anything else for trying to leave?
24	A. No.
25	Q. Okay. Do you ever recall either telling

	111
1	the children or overhearing any staff telling the
2	children that if they left, that there would be any
3	sort of negative repercussions like the police would
4	bring them back or there would be any sort of threat
5	to keep them there?
6	A. Not that I'm aware of.
7	Q. Okay. But, again, you weren't there for
8	every conversation?
9	A. That's correct. Yeah.
10	Q. I know I keep saying that, but I just
11	want to be clear.
12	A. Yeah.
13	Q. Throughout the Liberty Ridge mission and
14	documents, again, we keep talking about the word
15	therapeutic, and just to be clear, when determining
16	that the certain exercises, and by exercises I mean
17	occupational exercises, work, anything that was done
18	there was considered to be therapeutic that was not
19	because you went and talked to a therapist to say it
20	is therapeutic to do X?
21	A. No.
22	Q. Okay. Do you recall if you or the board
23	ever consulted with a medical or a psychological
24	professional to determine whether the work performed
25	at Liberty Ridge or the forms of consequences may

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1	cause psychological or physical harm or anything?
2	A. No.
3	Q. Okay.
4	MS. WYNKOOP: Off the record for a
5	second. Do you want a break?
6	A. I have a cramp in my leg.
7	MS. FRANCHI: I honestly only have like a
8	few more minutes. If you want to stand up, we can
9	take five, and then we can
10	A. Suddenly I got a cramp in my leg.
11	THE VIDEOGRAPHER: We are going off the
12	record at 11:17 a.m.
13	(Recess)
14	THE VIDEOGRAPHER: We are back on the
15	record at 11:20 a.m.
16	BY MS. FRANCHI:
17	Q. All right. Mr. Weaver, I'm going to
18	pivot a little bit. We only have, I think, a few more
19	minutes, and then your attorney can ask you any
20	questions if she has any.
21	So I just want to touch base briefly
22	about my clients specifically. I know we talked a
23	little bit about David Cross, and a lot of these may
24	have been generally asked before, but you are familiar
25	with Mr. Cross?

1		
1	Α.	Yes. 113
2	Q.	And was he Mr. Bates when he was at
3	Liberty Ridge	e?
4	A.	Mr.?
5	Q.	Bates? David Bates? I know he went by
6	two different	t names at one point.
7	A.	No.
8	Q.	Okay. Was it always David Cross?
9	A.	Yes.
10	Q.	Okay. And were you working at Liberty
11	Ridge the en	tire time that David was at Liberty Ridge?
12	A.	Yes.
13	Q.	Okay. And would that have been as house
14	parent the en	ntire time?
15	A.	Yes.
16	Q.	And you had said to me that you don't
17	recall being	involved in David's recruitment?
18	A.	No.
19		MS. WYNKOOP: Objection to form. Go
20	ahead.	
21	BY MS. FRANC	HI:
22	Q.	You said no?
23	A.	Yeah.
24		MS. WYNKOOP: You can answer when I do
25	that. I'll	tell you if you can't.

1	Α.	I'm sorry.
2		MS. WYNKOOP: Yeah. That's okay.
3	Α.	Did I do something wrong?
4		MS. WYNKOOP: No.
5	Α.	Okay.
6	BY MS. FRANC	HI:
7	Q.	And, again, you had mentioned earlier
8	that you wer	en't generally familiar with the finances
9	of Liberty R	idge, so you do not know how much David's
10	parents were	paying for him to go to Liberty Ridge?
11	Α.	No.
12	Q.	Okay. And that would be the same thing
13	for Robert,	you don't know?
14	Α.	I do not know.
15	Q.	Okay. Were you ever involved in the
16	day-to-day d	irection of telling David what to do or
17	was that alw	ays communicated to the mentors to tell
18	David what t	o do?
19	Α.	Occasionally I would add some dimension
20	to it.	
21	Q.	Okay. But generally it was the mentors?
22	Α.	Generally it was the mentors.
23	Q.	Okay. Were you ever involved in directly
24	administerin	g consequences to David or was that the
25	mentors woul	d do that, and then you would secondarily

1	become involv	115
2		
		Some of both.
3	Q.	Okay. What was that generally for?
4	Α.	Just so that one man didn't have all the
5	burden of it	•
6	Q.	Okay. Were you ever involved at least
7	you said two	times that David tried to leave the
8	property?	
9	A.	Were I ever involved?
10	Q.	Were you involved in bringing him back or
11	did you just	hear about it?
12	A.	I escorted him once to the edge of the
13	property.	
14	Q.	Oh, you did. Okay.
15	A.	Yeah.
16	Q.	Do you recall whether David ever
17	expressed any	y suicidal ideations or intent when he was
18	at Liberty R	idge?
19	A.	No, no.
20	Q.	Okay. And this, again, that was just you
21	never heard	of that or observed it?
22	A.	No.
23	Q.	Okay.
24	A.	No.
25	Q.	Moving on to Robert Miller. So you were

		116
1	familiar with Mr. Mil	
2	A. Mm-hmm.	
3	Q. And were	you the house parent at Liberty
4	Ridge the entire time	Robert was there?
5	A. Yes.	
6	Q. Okay. A	nd do you recall about how long
7	Robert was at Liberty	Ridge for?
8	A. Not exac	tly, but six to eight months.
9	Q. So signi	ficantly shorter than David?
10	A. Yeah, mu	ch shorter.
11	Q. Okay. W	ere you involved in any way with
12	Robert's recruitment	or bringing him to Liberty Ridge?
13	A. No.	
14	MS. WYNK	OOP: Objection to form.
15	BY MS. FRANCHI:	
16	Q. Okay. W	ere you familiar with Robert
17	prior to him coming t	o Liberty Ridge?
18	A. No.	
19	Q. Okay. A	re you aware of were you
20	familiar with his fam	ily at all before he came to
21	Liberty Ridge?	
22	A. No.	
23	Q. Okay. W	ere you strike that. Are you
24	familiar with where R	obert came from before coming to
25	Liberty Ridge or do y	ou not have that knowledge

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1	usually?
2	A. Did not have that knowledge.
3	Q. Okay. Do you recall Robert ever
4	receiving any consequences?
5	A. Very little. Maybe some sentence
6	writing. Very little.
7	Q. Okay.
8	A. Robert did very well.
9	Q. Okay. Do you ever recall David or any of
10	the boys receiving consequences for, I guess, either
11	intervening or sticking up for other children that
12	were at Liberty Ridge?
13	A. I don't recall.
14	Q. Okay. Do you ever recall any of the
15	children being made to run and like following them in
16	a vehicle or golf cart or anything like that to keep
17	them running?
18	A. We followed occasionally beside them, but
19	we didn't it was not being pushed.
20	Q. Okay.
21	A. It was just to be with them. That's all.
22	Q. Okay. And that would occur in it
23	could be in a vehicle or something to that?
24	A. Yes.
25	Q. Okay.

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1	A. But we did not push them in any way.
2	Q. Okay. Do you ever recall any of the
3	children speaking out about any of the mentors either
4	amongst themselves or to you?
5	A. No.
6	Q. Okay.
7	A. No.
8	Q. And within the new policy manual it
9	speaks a little bit to there being rules against the
LO	boys, I guess, complaining about the mentors.
L1	Was that something that was in the policy
L 2	manual when you were the house parent at Liberty
L3	Ridge?
L4	A. I don't think so.
L5	Q. Okay. Do you recall whether there were
L6	any rules prohibiting the children from either
L7	complaining or speaking out against their mentors?
L8	A. No. There was no rules on that.
L9	Q. Okay. I think this might be all of the
20	questions actually, I have three more brief ones.
21	Are you aware while you were a house parent or at
22	least between the years of 2011 to 2014 were there any
23	law enforcement investigations or governmental
24	investigations of Liberty Ridge when you were there?
25	A. One time.

_	_	119
1	Q.	Okay. What was that?
2	Α.	That's whenever I.M. was there.
3	Q.	Okay.
4	Α.	His brother turned us in because he said
5	we do not ha	ve the legal right to have him there.
6	Q.	Okay.
7	Α.	So Children and Youth Services showed up
8	and asked fo	r documentation. I gave them the power of
9	attorney pap	ers, the medical consent forms, activity
10	restriction	the parents I gave them all the papers
11	that we had,	and we were cleared.
12	Q.	Okay. Did any do you remember if CYS
13	spoke with a	ny of the mentors or any of the other
L3 L4	spoke with a	ny of the mentors or any of the other
		ny of the mentors or any of the other No.
14	staff?	
14 15	staff?	No. Okay. Do you remember if they talked to
14 15 16	staff? A. Q.	No. Okay. Do you remember if they talked to hildren?
14 15 16 17	A. Q. any of the c	No. Okay. Do you remember if they talked to hildren?
14 15 16 17 18	A. Q. any of the care	No. Okay. Do you remember if they talked to hildren? They talked to I.M.
14 15 16 17	A. Q. any of the cand A. Q. A.	No. Okay. Do you remember if they talked to hildren? They talked to I.M. Okay.
14 15 16 17 18 19	A. Q. any of the c A. Q. A. said do you	No. Okay. Do you remember if they talked to hildren? They talked to I.M. Okay. I remember the lady said to I.M., she
14 15 16 17 18 19 20	A. Q. any of the c A. Q. A. said do you	No. Okay. Do you remember if they talked to hildren? They talked to I.M. Okay. I remember the lady said to I.M., she enjoy it here, and he said yes. We did
14 15 16 17 18 19 20 21 22	A. Q. any of the can A. Q. A. said do you not tell him	No. Okay. Do you remember if they talked to hildren? They talked to I.M. Okay. I remember the lady said to I.M., she enjoy it here, and he said yes. We did to say that. He offered it on his own. MS. FRANCHI: Okay. And, again, what we
14 15 16 17 18 19 20 21	A. Q. any of the can do is ju	No. Okay. Do you remember if they talked to hildren? They talked to I.M. Okay. I remember the lady said to I.M., she enjoy it here, and he said yes. We did to say that. He offered it on his own.

		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		_
1		MS. WYNKOOP:	120 Yes.	,
2		MS. FRANCHI:	So instead of saying the	
3	name I.M., w	e can just put	like the boy.	
4		MS. WYNKOOP:	Or initials, whatever.	
5	BY MS. FRANC	HI:		
6	Q.	Do you recall	when I.M. was interviewed,	
7	was his ment	or or were other	er staff members present?	
8	Α.	I do not know		
9		MS. FRANCHI:	Okay. I don't think I have	
10	any more que	stions. Thank	you.	
11		MS. WYNKOOP:	I don't have any questions.	
12		MS. FRANCHI:	All right. I think we're	
13	good.			
14		MS. WYNKOOP:	You're done.	
15		THE VIDEOGRAPH	HER: This marks the end of	
16	the depositi	on of Ethan Wea	aver. We are going off the	
17	record at 11	:28 a.m.		
18		(The deposition	on was concluded at 11:28	
19	a.m.)			
20				
21				
22				
23				
24				
25				

1	COMMONWEALTH OF PENNSYLVANIA)) SS.	121
2	COUNTY OF YORK)	
3	I, Tracy L. Lloyd, a Registered	
4	Professional Reporter and Notary Public in and for the Commonwealth of Pennsylvania and County of	
5	York, do hereby certify that the foregoing	
6	testimony was taken before me at the time and place hereinbefore set forth, and that it is the testimony of:	
7	CCBCIMOTY OF	
8	ETHAN WEAVER	
9	T fourthern would be that weld with an	
10	I further certify that said witness was by me duly sworn to testify the whole and	
11	complete truth in said cause; that the testimony then given was reported by me stenographically, and	
12	subsequently transcribed under my direction and supervision; and that the foregoing is a full, true	
13	and correct transcript of my original shorthand notes.	
14	I further certify that I am not	
15	counsel for nor related to any of the parties to the foregoing cause, nor employed by them or their	
16	attorneys, and am not interested in the subject matter or outcome thereof.	
17	Dated at York, Pennsylvania, this 31st day of October, 2022.	
18	day of october, 2022.	
19	Judge Jugg	
20	The art I blood Note and Dublic	
21	Tracy L. Lloyd, Notary Public Registered Professional Reporter	
22	/mb 6	
23	(The foregoing certification does not apply to any reproduction of the same by any means unless under	
24	the direct control and/or supervision of the certifying reporter.)	
25	My Commission expires: April 21, 2023	

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